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Current Topics.

Service of Divorce Petition on Minor.

A PRACTICE point of some importance with regard to the service of divorce petitions on minors was raised before BATESON, J., in *McCausland* v. *McCausland*, 1927, 71 SOL. J., 472. The material rules of court are as follows: According to r. 7 of the Matrimonial Causes Rules, 1924, a petition shall be served personally by delivery of a sealed copy of the petition. By r. 74A it is provided that "A minor who has attained the age of seven years may elect a guardian *ad litem* for the purpose of any proceeding on his or her behalf," and by r. 97 "in any matter of practice or procedure which is not governed by statute or dealt with by the [Matrimonial Causes] Rules, the Rules of the Supreme Court in respect of like matters shall be deemed to apply." According to Ord. 9, r. 4, of the Rules of the Supreme Court it is provided that "When an infant is a defendant to the *action*, service on his father or guardian, or, if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the court or a judge otherwise orders, be deemed good service on the infant, provided that the court or judge may order that service made or to be made on the infant shall be deemed good service." The question of the method of service of a divorce petition, when the respondent is an infant, was raised prior to the making of the Matrimonial Causes Rules, 1924, in *Quinn* v. *Quinn*, 1920, P. 65, and as the material rules then in force were the same as they are now that case appears to be very much in point. It was there held that, where the respondent is a minor, it is not necessary for the petitioner to see that a guardian *ad litem* has been appointed, and service on a respondent who has no such guardian is good if it is effected in the presence of his natural guardians, and the opinion was also expressed *obiter* that service on the infant, even though not in the presence of any such persons, would be good. In his judgment the President said: "In *Cooper* v. *Green*, 1825, 2 Add. Ecc. 454, it is laid down that service on a minor in *Probate* cases should be made in the presence of 'the natural or legal guardians of the minor; or, at least, in that of some person or persons upon whom the actual care and custody of the minor for the time being had properly devolved.' That was a Probate case, and no doubt some colour is given by the Divorce Rule 10 [i.e., of the then existing Rules] to the view that those precautions are not necessary in matrimonial suits." This view appears to have been confirmed by Mr. Justice BATESON in *McCausland's Case* (though the report is not quite clear on the point), since service on the infant personally, and not apparently even in the presence of any natural guardians, was held in that case to be good.

A Long-lost Will.

THE PROBLEMS raised by the sudden discovery of the last will of a person long since dead perhaps arise more frequently in fiction than in fact. Nevertheless, the Court of Appeal in *Re Musgrove*, reported in *The Times* of 3rd June, has just pronounced in favour of such a will, of a spinster who died well over twenty years ago, and in "Points in Practice," *Q.* 796, p. 427, *ante*, our conveyancing contributor has wrestled with the issue whether the Statutes of Limitation run against the devisees, and, perhaps piqued by his failure to find an authority in his own books to satisfy him, has hunted afield and brought a case from Delaware to bear on the puzzle.

In the case before the Court of Appeal, the testatrix had made a will in favour of the daughter of a particular person, and delivered it to that person, who was therein appointed executrix. The testatrix died in 1905, but the executrix, who died in 1924, never proved or even produced the will. The beneficiary died in 1925, and her husband, finding it in his mother-in-law's desk, propounded it. Mr. Justice HILL pronounced against it, partly on the ground that the testatrix had entirely forgotten about it, and that therefore it did not represent her wishes, and partly because he deemed the fact that the executrix never attempted to prove it suspicious. The Court of Appeal reversed his judgment, because they held that the will, if produced soon after the death of the testatrix, would have been admissible to probate, and nothing had happened since to bar its effect. There is, of course, no time-limit for the proof of a will, though persons knowing of the existence of a will in their favour, and failing to prove it in reasonable time, might have to meet defences of laches and acquiescence if they sought to establish title under it.

The question of the operation of the Statutes of Limitation is perhaps a nicer one. In the answer to *Q.* 796, the opinion

was expressed on the authorities quoted that they ran in favour of the heir as against the devisees. If probate of a superseded will or letters of administration as on intestacy have been granted, however, s. 1 of the Land Transfer Act, 1897 (not repealed by the new legislation as to deaths occurring before 1st January, 1926), provides that the personal representatives (who, according to *Hewson* v. *Shelley*, 1914, 2 Ch. 13, and s. 27 of the Administration of Estates Act, 1925, are the *de facto* representatives) shall be "trustees for the persons by law beneficially entitled thereto," and *Toates* v. *Toates*, 1926, 2 K.B. 30, is authority that they are express trustees in favour of whom, under the Judicature Act, 1873, s. 25 (2), the statutes do not run. The position is thus a peculiar one, for they may be express trustees for unknown beneficiaries in whose favour their consciences could not possibly be bound by the application of the most rigid doctrines of equity. If the statutes cannot run in their favour, however, there seems nothing to exclude their operation in favour of the persons, other than the personal representatives, enjoying the property under the supposed intestacy or previous will, who might be deemed "beneficially entitled" by the operation of the statutes. Our impression is that in fiction the long-lost will always favours the hero or heroine and prevails against the wicked uncle. Was it not such a will that SQUEERS and SLIDERSKEW found, when the former was knocked on the head by his unseen watcher?

Foreign Decree of Nullity.

A VERY curious set of circumstances is revealed in the case of *Salvesen (or Von Lorang)* v. *Administrator of Austrian Property*, 1927, W.N. 172, where the House of Lords reversed the decision of the majority of the First Division of the Court of Session—see 1926, S.C. 598. The facts were that a domiciled Scotswoman went through a form of marriage in Paris in 1897 with an Austrian subject, who was domiciled in Austria. After the marriage the parties became domiciled in Germany and lived there till 1924, except during the war period, when the husband served in the Austrian army, and the wife resided in Switzerland. Certain funds were held in Scotland for the benefit of the wife, and in 1923 the Administrator of Austrian property served notice on the fund-holders requiring payment to him on the ground that they belonged to a national of the former Austrian Empire. Thereafter, namely in 1924, the wife brought a nullity suit in Germany on the grounds, *inter alia*, that neither of the parties had the necessary residential qualification in France when they went through the form of marriage there; and after hearing evidence the German Court pronounced a decree of nullity. The holders of the fund having interpleaded, or, in Scottish phrase, having brought an action of multiplepoinding, the question before the Court of Session was whether the decree in the nullity suit was a decree *in rem*, and so conclusive, it being alleged that it was obtained by a collusive arrangement between the parties. The Lord Ordinary, that is, the judge of first instance, held that even if it were the fact that the husband, when her fortune was imperilled, told his wife the truth as to the circumstances attending the marriage, and assisted her to obtain any redress to which she was lawfully entitled in consequence of certain false certificates furnished by him to the registrar in Paris at the time of the marriage, this did not amount to collusion, and in his view the decree was a final and conclusive adjudication as to the nullity of the marriage ceremony. The First Division, Lord SANDS dissenting, reversed this decision, and from this reversal there came an appeal to the House of Lords which has now restored the decision of the Lord Ordinary and expressed concurrence with his and Lord SANDS' reasoning. The judgment of Lord SANDS is, as it was described by Lord DUNEDIN, a masterly exposition of the subject of the binding force of foreign judgments, and it is at the same time an equally remarkable example of a finely phrased judgment displaying, too, a profound knowledge of human nature. Referring to the suggestion that the action by the wife was solely induced by the desire to save her property, he says that difficult situations invite charity of judgment, and adds, not without humour: "If it were the custom in England to place a widow upon the funeral pyre of her husband, one might hesitate to blame a widow, however long the union might have subsisted and affectionate the relationship might have been, if, when the faggots were being prepared, she called attention to the fact that the marriage had taken place in Scotland without the necessary residence of twenty-one days"—a very apt and happy illustration. The House of Lords, holding that there were no materials upon which to base the allegation of collusion and that the motive of the parties in obtaining the decree was immaterial, affirmed the view expressed by LINDLEY, M.R., in *Pemberton* v. *Hughes*, 1899, 1 Ch. 781, that our courts never inquire whether a competent foreign tribunal has exercised its jurisdiction improperly, provided, of course, no substantial injustice has been committed. Alike in legal and human interest the case is full of instruction.

Recovery of Unemployment Insurance Contributions.

WHETHER THE right to recover arrears of unemployment insurance contributions in respect of any period preceding the period of twelve months prior to the date when an information is laid before justices under s. 22 of the Unemployment Insurance Act, 1920, is lost by taking proceedings under that section, was considered by the Court of Appeal in *Attorney-General* v. *Paine*, *Times*, 25th May.

According to sub-s. (3) of that section "where an employer has been convicted under [s. 22] of the offence of failing or neglecting to pay any contribution under this Act, he shall be liable to pay to the unemployment fund a sum equal to the amount which he has so failed or neglected to pay, and on such a conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure or neglect on the part of the employer to pay other contributions in respect of the same person during the year preceding the date when the information was so laid, and on proof of such failure or neglect the employer shall be liable to pay to the unemployment fund a sum equal to the total of all the contributions which he is so proved to have failed or neglected to pay . . ."

According to sub-s. (6) of s. 22, however, it is provided that, "Nothing in this section shall be construed as preventing the Minister from recovering any sums due to the unemployment fund by means of civil proceedings, and all such sums shall be recoverable as debts due to the Crown and without prejudice to any other remedy may be recovered by the Minister summarily as a civil debt."

In *Attorney-General* v. *Paine*, an information had been laid under s. 22, against the respondent, who had been ordered by the justices to pay also the arrears of contributions unpaid for twelve months preceding the information. Subsequently, civil proceedings, by information, were brought to recover contributions in respect of a prior period (i.e., prior to the above period of twelve months).

Mr. Justice ROWLATT took the view that sub-s. (3) provided a special remedy, which, however, was exclusive to this extent, viz., that it prevented any further proceedings being taken, once the special remedy under sub-s. (3) had been invoked, although if proceedings under sub-s. (3) had not been taken, the right to recover the amount of the arrears by civil proceedings was in no way affected.

With this view, however, the Court of Appeal disagreed, holding that the rights given to the Minister by sub-s. (6) to recover arrears were not alternative but cumulative. The court accordingly held that the claim to recover the additional arrears was not barred by the fact that proceedings had been taken before the justices under s. 22.

Report of Committee on the Law of Arbitration.

In the early days of arbitration the common law adopted an attitude of jealousy and suspicion, and agreements to refer disputes to arbitration were frequently held void on the ground of public policy as being an unwarrantable attempt to oust the jurisdiction of the court. The decision of the House of Lords in *Scott* v. *Avery*, 1855-1856, 5 H.L.C. 811; 25 L.J. Ex. 303, is largely responsible for the different view which now prevails. It is now nearly forty years since the lines of our present system of arbitration were laid down by the Act of 1889, and although in broad outline the system has worked well, experience has shown a number of defects to exist. Accordingly, in 1926, the Lord Chancellor appointed a committee—

> "to consider and report whether any, and if so, what, alterations are desirable in the law relating to arbitration, and in particular to submissions, arbitrations, and awards, made or held in England and Wales, or the law relating to the effect given in England and Wales to submissions, arbitrations, and awards made or held elsewhere."

The committee consisted of Mr. Justice MacKinnon, Mr. J. G. Archibald, Sir Thomas Willes Chitty, Bart., Sir James Martin, Mr. F. B. Merriman, K.C., Mr. W. N. Raeburn, K.C., and Mr. S. H. Cotton. It was thus a committee of experts, and the Report [Cmd. 2817] is an excellent piece of work, showing what a valuable instrument of legal reform the appointment of a committee can be when it is possible to select the personnel purely on the merits of the case and irrespective of any need of satisfying political and other sectional interests or of impressing the public with a suitable array of "shirt-fronts." Apart from its recommendations, the Report is valuable in pointing out some of the traps which at present beset the paths of those who go to arbitration and their legal advisers.

The reforms recommended are unspectacular and raise no big questions of principle. They are detailed to the point of minuteness and essentially practical, being the fruit of the knowledge of those who, as parties, witnesses, advocates and arbitrators, have learned where the machinery requires lubrication or adjustment. We shall deal with the more important of the recommendations one by one and without attempting to string them on a common thread.

Time.—The existing law as to the time within which an award must be made and as to the enlargement of the time is unsatisfactory. Most prudent arbitrators, as a matter of course, endorse upon the submission at an early stage an extension of time for a purely arbitrary period ("he can make it a century with complete immunity," says the Report). Moreover, a party to a submission who wants delay rather than an award can, and often does, induce his arbitrator to delay matters as much as possible. The committee recommend an amendment of the law which will compel arbitrators or an umpire to make an award "with all reasonable despatch" and enable either party to the submission to apply to the court for leave to revoke the submission or for an order to remove an arbitrator or umpire who is in default and appoint another one in his place.

Interlocutory Proceedings.—At present almost the only provision for interlocutory proceedings in an arbitration is the power of the court to order the issue of a *subpœna* upon a witness. There are a number of other orders which the committee recommend that the court (including a district registrar) should be empowered to make in aid of arbitration proceedings, namely:—

> "(*a*) for the examination of a witness or witnesses before a special examiner either in this country or abroad;
> (*b*) for discovery of documents and interrogatories;
> (*c*) for evidence to be given by affidavit in the same circumstances as in litigation;
> (*d*) for another party to give security for costs in the same way as a litigant;
> (*e*) for the inspection, or the interim preservation, or the sale of goods or property, the subject matter of the arbitration;
> (*f*) for an interim injunction, or similar relief;
> (*g*) for directing an issue by way of interpleader between two parties to a submission and the relief of a third party desiring so to interplead;
> (*h*) for substituted service of notices required by the Act; which should include a provision for the service upon an agent in this country of a party resident abroad—a thing not included in the ordinary machinery of the Courts under the name of 'substituted service.'"

Consultative Cases under s. 19 of the Arbitration Act and Special Cases under s. 7.—The difference between these two proceedings is somewhat arbitrary, and does not seem to justify the difference in treatment as to method of hearing and as to right of appeal. Moreover, recent litigation (*Owners of S.S. "Lord"* v. *Newsum*, 1921, 2 A.C. 528) has shown that it is sometimes not easy to decide whether a case is stated under s. 7 or s. 19, which results in hopeless confusion. Accordingly the committee recommend that—

> "(*a*) the Court should be given power to order an award to be stated in the form of a special case under section 7 in addition to, and as an alternative to, its power to order a consultative case under section 19;
> (*b*) that the right of appeal from the decision of a case stated under section 7 should remain as at present, and that by leave of the Court which hears a case stated under section 19 or by leave of the Court of Appeal there should be an appeal to the Court of Appeal, but only by such leave;
> (*c*) that, as a matter of practice, a case stated under section 19 should also be heard, like a case stated under section 7, before a single judge."

They further make a recommendation—which we do not think will encounter violent opposition from practitioners in the Commercial Court—that, in the case of special cases in commercial arbitrations, a party may apply to the judge taking the Commercial List, to transfer the case to his court and fix a day for the hearing.

Enforcing and Setting Aside Awards.—At present the right under Ord. 64, r. 14, to apply to set aside an award within six weeks of its publication, is apt to operate as a serious clog upon the right under s. 12 of the Act to apply to the court for the enforcement of the award in the same manner as a judgment, because the respondent to the latter application is prone to aver that he is on the point of moving to set aside the award and thus obtains at least six weeks' respite, and more if he chooses to set down *mala fide* a motion which will never be moved. Accordingly the committee recommend (i) that the time for moving to set aside an award be cut down from six weeks to fourteen days (subject to enlargement by the court in proper cases), and (ii) that the court should have power to order a respondent to an application for leave to enforce the award to give security by payment into court or otherwise, if he seeks to postpone the hearing of the application on the ground of his intention to move to set aside the award.

Final Judgment.—The committee recommend that, instead of an order under s. 12 for enforcing the award in the same manner as a judgment, there should be a final judgment in the terms of the award. The result would be that a bankruptcy notice could be founded upon it, and it would also be more valuable outside England.

Death or Bankruptcy.—It is recommended that it should be made clear by new legislation that neither the death nor the bankruptcy of a party to a submission revokes it.

Two Arbitrators.—The futility, in the majority of cases, of the practice whereby each party appoints an arbitrator and the two arbitrators appoint an umpire, is severely animadverted upon by the committee. We believe that many solicitors have long ago been convinced by experience of the absurdity of such a form of submission in most cases, and

habitually advise their clients against it. Only too often the result is that each arbitrator is the partisan of the party appointing him ("*my* arbitrator" is almost a contradiction in terms), there is no hope of agreement from the beginning, and, when eventually they sit together with the umpire, each arbitrator is anxious to do his best for "his client," and usually embarrasses him and his real advocate by inconvenient questions and interjections. As the Report says—

> "we are all of us familiar with the experience (which occasionally happens) that the arbitrators are mere passengers in the boat, who give no real assistance to the umpire, and whose sole reason for attending appears to be to inform the umpire at the conclusion of *his* labours of the fees which they desire him to include in the award on their behalf."

Accordingly the committee recommend that in the case of submissions in this form (i) the two arbitrators shall immediately after their appointment proceed to appoint the umpire, and (ii) at any time thereafter either party may apply to the court for an order that the umpire shall henceforth act as sole arbitrator.

Foreign Submissions and Awards are the subject of a bunch of recommendations, some of which are merely for the purpose of removing doubts. A "submission" in the Act should include "a written agreement *wherever made*." The provisions about enforcing an award should equally apply to a foreign award. The court should receive power to order service of notice of an application to enforce an award as a judgment upon the agent of a foreign party who has represented him in the conduct of the arbitration in this country. And if an action is brought upon an award, English or foreign, leave to serve the writ out of the jurisdiction should be made possible by an amendment of Ord. XI, r. 1. The international enforcement of awards is an exceedingly intricate matter, and we are far from being out of the wood yet. A committee appointed by the League of Nations has been sitting at Geneva this year, and we are hopeful that its report, when published, will throw light upon this difficult problem.

Miscellaneous.—The committee also recommend (*a*) that an arbitrator or umpire should have power to make an *interim award*; (*b*) that he should have power to order *specific performance* of a contract for the delivery of any property other than land or money; (*c*) that all awards should carry *interest* as a matter of course; (*d*) that a party to a submission should have power to apply to the court for the *taxation of the fees* made payable by an award; and (*e*) that costs should be payable by the Crown in the same way as by any other party.

The method of giving effect to their recommendations which the committee propose is a repeal of the Arbitration Act, 1889, and the existing amending legislation, coupled with a new consolidating and amending Arbitration Act. We hope that a bill will be introduced without delay. Arbitration has become an integral part of our legal system. When the parties *bona fide* and in a friendly spirit desire to find a solution of a dispute by arbitration, it works well. When either of them is not animated by these motives, it can work incredibly badly and very much worse than an ordinary legal action. Every effort should be made to perfect the machinery of arbitration; but, even when that has been done, we incline to the view that, for a stubborn debtor who is determined not to pay until he is forced and will resort to every artifice open to him, a writ of summons, when available, is the medicine which acts most rapidly and thoroughly.

Some Problems of Expulsion.

In previous articles (pp. 134, 185, 219 and 242) expulsion from various unincorporated associations has been considered, including the legal and medical professions, trade unions and employers' federations, religious bodies, clubs, schools, etc. The underlying problem of justice in respect of such expulsions is virtually the same as that attending expulsion from corporations, but the legal rights may be clothed in different forms. In each case discrimination must be made between expulsion from the executive body, such as the medical council, a borough council, or a board of directors, and of expulsion from the association or corporation itself, the latter in the ordinary case requiring the stronger justification. For example, the director of a limited company might be removable on the votes of shareholders who had ceased to place confidence in him, but to attempt to remove a shareholder from the register against his will because the other shareholders did not like him would be a very different matter.

A corporation has an inherent power to expel or "disfranchise" a member if such member's conduct has injured or tended to injure it, on the broad ground of self-preservation, and also, perhaps, to expel or "amove" a member of its governing body. As to the latter case, however, the issue may be raised, if the corporation is regulated by statute, and the statute prescribes vacation of office, whether other forms of expulsion may be permissible. This point was discussed in *Booth* v. *Arnold*, 1895, 1 Q.B. 571, a libel action brought by a town councillor in respect of a charge that he had used his office for the purpose of dishonestly procuring advantage to himself. The question then arose as to whether he could have been dismissed on such a charge, in view of the express statutory disqualifications in ss. 12 and 39 of the Municipal Corporations Act, 1882. These relate to persons having contracts with the council, clergymen, etc. (s. 12), and bankrupt and absentee councillors (s. 39). Counsel for the defendant argued that, since the statute regulated the framework and machinery of the borough council, expulsion otherwise than under these sections was not permissible, though they had to admit that, on such footing, a councillor guilty of the most corrupt behaviour might retain office. The question, it may be observed, related to "amotion" or removal from office, rather than disfranchisement or expulsion, and Lopes, L.J., was of opinion (pp. 578-9) that the common law power still remained, quoting an unreported case in which he had been counsel in 1872. Esher, M.R., and Rigby, L.J., however, preferred expressly to decide the case on other grounds, so the point cannot be regarded as definitely settled. It also seemed uncertain whether the amotion would have to be made by the corporate body as a whole (no machinery to this end being provided) or its executive. The case does not appear to have since been the subject of judicial comment.

For expulsion from county councils, reference may be made to the Local Government Act, 1888, s. 75, adopting the provisions of the Municipal Corporations Act, 1882, in this respect, with the slight variation contained in sub-s. (14). That from district and parish councils is regulated by the somewhat wider provision of s. 46 of the Local Government Act, 1894. Although these councils may take over the duties of vestries or other local authorities, they are purely the creation of statute, by which alone expulsion from them would probably be held to be regulated. The county, district, or parish, as a whole, has, of course, the ordinary statutory power of expelling a councillor at certain appointed times by refusing to re-elect him.

The common law power of disfranchisement or expulsion from a corporation, as distinct from its executive, does not appear to have been the subject of recent judicial decision, but two old authorities may be mentioned, namely, *Bagg's Case*, 1615, 11 Co. Rep. 93*b*, and *R.* v. *Chalke*, 1697, 1 Ld. Raymond 225. These lay down the fundamental rule that,

before a corporator can be expelled for conduct justifying the step, he must be heard in his defence. An inhabitant of a county or parish cannot of course be expelled, but it is conceived that a borough might be able to purge its roll of undesirable freemen. In *Symmons* v. *R.*, 1776, 2 Cowp. 489, however, it was laid down that only the corporation at large could do this, and not its select body. Some honorary freemen were certainly struck off the rolls of boroughs during the war, but they have not troubled to test their rights. The constitution of a particular corporation may allow of arbitrary disfranchisement, as in *R.* v. *Andover* (*Village*), 1701, 12 Mod. Rep. 665, In *R.* v. *Corporation of Great Grimsby*, 1832, 1 L.J., N.S. (M.C.) 23, the disfranchisement of a freeman of the borough was forbidden.

The expulsion of a shareholder from a company normally takes place as the result of forfeiture of his share or shares consequent on his default in payment of the instalment of the purchase prices or a call, and there can be no question but that an article to this end is *intra vires*. The expulsion of a fully paid-up shareholder may, however, also be possible, if he is compensated, though the courts very narrowly regard the exercise of such a power by a majority against a minority. Reference may be made to three recent cases, namely, *Brown* v. *British Abrasive Wheel Co., Ltd.*, 1919, 1 Ch. 290; *Sidebottom* v. *Kershaw, Leese & Co., Ltd.*, 1920, 1 Ch. 154; and *Dafen Tinplate Co., Ltd.* v. *Llanelly Steel Co.* (1907), *Ltd.*, 1920, 2 Ch. 124. In the first case, a majority of the company, representing 98 per cent., proposed to alter its articles to expropriate the 2 per cent. who were not willing to subscribe fresh capital, stating that the alternative would be liquidation. ASTBURY, J., held that a majority, even as great as above, although willing to have the price of the shares of the expropriated members fixed in any way the court might think fit, had no power to force such a scheme on a minority. In the case of *Sidebottom* the company had altered its articles in order to have the right to expel a shareholder (paying full compensation) who was in competition with the defendant company in its own business. There it was held that the provision was a reasonable one for the benefit of the company as a whole, and that the power had been reasonably exercised against the plaintiffs. In the *Dafen Tinplate* case the new article, giving the company power to expropriate shareholders at the will of the majority, went much further than was necessary for the protection of the company, and was therefore void. And the exception of a particular shareholder from its provisions, thereby conferring a privilege denied to other members of the class, was another reason for its invalidity. The three cases, and those cited in the arguments and judgments, well illustrate the principles involved, and show in what circumstances the majority of a company may lawfully expel members in the minority.

With respect to limited companies, however, it must also be remembered that the rights of third parties may have to be considered, and a forfeiture of shares in which the shareholder acquiesces may, nevertheless, be invalid if made for the purpose of enabling him to escape liability as a contributory. For this proposition, reference may be made to *Spackman* v. *Evans*, 1868, L.R. 3, H.L. 171, in which Lord CRANWORTH, dealing with the power of forfeiture, observed (p. 186) that "It is a power intended to be exercised only when the circumstances of the shareholder may make its exercise expedient for the interest of the company, not a power to be exercised for the interest, or supposed interest, of the shareholder." This, and many similar cases, show that a company cannot always validate the irregular expulsion of a particular shareholder, although he acquiesces.

(*To be concluded.*)

Mr. CLARENCE GABRIEL MORAN, Barrister-at-Law, has been appointed Assistant Coroner for the South London District. Mr. Moran was called to the Bar in 1902.

Recovery of Damages against an Insured Bankrupt.

THE desirability of some form of compulsory insurance by motorists against third party risks is becoming generally recognised. Closely related to this question, of more interest to lawyers and, it is submitted, equally deserving of legislative attention, is the position which arises on the bankruptcy of a defendant in a "running down" action, who is the holder of an accident policy of insurance against third party risks. In normal circumstances the insurance company, having undertaken the defence of the proceedings in the defendant's name, would pay over to a successful plaintiff the sum for which he had recovered judgment against the defendant. It would seem that this course cannot be followed when, subsequently to the institution of proceedings, a receiving order is made against the defendant. The action, being an action for unliquidated damages in tort and therefore in respect of a liability not provable, would not be stayed by the making of a receiving order. But having recovered judgment, the plaintiff is in the unfortunate position of being unable to enforce it until after the bankrupt's discharge, and then effectively only on the contingent acquisition of adequate assets by the bankrupt after such discharge. This is in spite of the fact that the insurance company will be obliged to pay over to the trustee in bankruptcy the full amount for which judgment has been given against the bankrupt; for the right to indemnity against the insurers would not come within the created exceptions to the rule that everything vested in a bankrupt vests in the trustee. (Unless it could be argued that if, as it appears, the exception of actions for breaches of contract resulting in direct injury to the bankrupt's person or feelings and of actions for personal torts resulting in direct injury to the feelings, is based on the distinction between cases where the bankrupt's estate is injured and where his person suffers, then this is not at any rate a right of action in respect of an injury to his estate and should therefore be exempted.)

In *Re Perkins*, 1898, 2 Ch. D. 182, the right to be indemnified against the covenants of a lease under a covenant by an assignee from the bankrupt was held to pass to the trustee. In that case the bankrupt was assignee of a lease and had assigned over, taking the usual covenant of indemnity. The trustee sold to the lessee the right of indemnity and the lessee was held entitled to recover from the executors of the second assignee the whole amount of the obligations created by the covenant of indemnity, and not to be restricted to the amount which he would have received in dividend on a proof against the estate of the bankrupt.

The trustee would then hold at his disposal the sum recovered from the insurers as property of the bankrupt for division among the general body of creditors for "the equitable doctrine is that the party to be indemnified can call upon the party bound to indemnify him specifically to perform his obligation, and to pay him the full amount which the creditor is entitled to receive, and that whether having it he applies it in payment of that creditor or not is a matter with which the party giving the indemnity is not concerned" (per BUCKLEY, L.J., in *The Liverpool Mortgage Insurance Company's Case*, 1914, 2 Ch. at p. 633). In the same case KENNEDY, L.J., says "How the person who receives payment of a sum of money under a contract of insurance or . . . indemnity, deals with that sum is, in general and apart from special considerations, no concern of the party who, in fulfilment of the contract, has made the payment to him."

Further, it is no answer to a claim to indemnity by a bankrupt or his trustee that the claim is in respect of damages due from the bankrupt, but not provable in his bankruptcy, and that therefore the loss in respect of which indemnity is claimed cannot arise until his discharge, for "where one person has covenanted to indemnify another, an action

for specific performance may be sustained before the plaintiff has actually been damnified; and the limit of the defendant's liability to the plaintiff is the full amount for which he is liable; or if he is dead or insolvent the full amount provable against his estate and not the amount of dividend which such estate can pay" (per WRIGHT, J., in *Wolmershausen* v. *Gullick*, 1893, 2 Ch. at p. 527). The measure is not the extent of the ability to pay, but of the liability to pay.

It is submitted that it would be more equitable if the rule by which, when money is due, in certain circumstances, to a bankrupt for payment to a specific person, the trustee in bankruptcy is bound to make such payment, should be extended to cover such a case as this. The assumption underlying the application of that rule is that the bankrupt is a mere conduit pipe for the payment, and that any money received by him in that capacity forms no part of his estate, The unsuccessful but insured defendant in a "running down" action is little more than a conduit pipe through whom the insurance company compensate the plaintiff. His bankruptcy should not prejudice the plaintiff's rights either to the advantage of the insurers or the general body of creditors. The remedy is indicated by the provisions of the Workmen's Compensation Act, 1906, s. 5, sub-s. (1) (re-enacted in the Act of 1925) in an analogous case. That sub-section provides that where an employer who is insured against his liability under the Act to a workman becomes bankrupt, the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman.

Harnett *v.* Fisher.

THE House of Lords have affirmed the decision of the Court of Appeal in *Harnett* v. *Fisher*: see 71 SOL. J. 470.

The facts in this case may briefly be summarised. The plaintiff brought an action against the defendant, a medical practitioner, claiming damages for negligence in signing a medical certificate under the Lunacy Act. The certificate in question was signed on the 10th November, 1912, and the writ in the action was issued on the 31st May, 1922, so that the proceedings were commenced more than six years after the accrual of the alleged right of action.

The jury found as a fact that the plaintiff was sane on the date when the certificate was signed (10th November, 1912), that the defendant was negligent, and they awarded the plaintiff £500. The question thereupon arose whether the action was statute-barred under s. 3 of the Statute of Limitations, which provides that "all actions upon the case" shall be commenced within six years next after the accrual of the cause of action. The plaintiff argued that the case was taken out of the statute by reason of the fact that a reception order had been made against him so that he was *non compos mentis* in the eyes of the law at any rate, and that, therefore, time did not begin to run against him until the year 1921, when he escaped and regained his liberty. According to s. 7 of the Statute of Limitations: "if any person . . . entitled to any such . . . actions upon the case for words be or shall be at the time of any such cause of action given or accrued . . . *non compos mentis* . . . then such person or persons shall be at liberty to bring the same actions so as they take the same within such times as are before limited after their coming to or being of sane memory . . . as other persons having no such impediment should have done." It might incidentally be noted that although this refers expressly only to one specific kind of action upon the case (i.e., for words), it has been held that that section applies to *all* actions upon the case, including, therefore, negligence: *Piggott* v. *Rush*, 4 Hd. & E. 912.

The House of Lords held that although a reception order had been made against the plaintiff, inasmuch as the jury had found him to be sane, the disability section did not apply, and the action was statute-barred.

The House appears to have been largely influenced by what in their opinion was the *object of the Act*. In his judgment, Lord SUMNER said: "The object of the Act was *to protect defendants against belated claims*; not merely those defendants who had a good defence and to that extent needed no protection, but those also who had not or who, owing to lapse of time, could no longer count on making out a sufficient answer."

With regard to the meaning of the expression "*non compos mentis*" in s. 7, Lord SUMNER added that these words "described an actual mental condition, which the jury's 'sane' negatived, and not a treatment imposed or a disability suffered because the plaintiff had been wrongly supposed to be in that mental state by whosesoever's fault . . . The question was not of the status of a lunatic imposed on him after the making of the reception order, but of his mental condition of sanity or insanity."

When one gets down to the root of the matter, the disability from which the appellant Harnett suffered was not that his actual mental condition was unsound, but that he had been wrongly detained as if he were insane and thereby debarred from taking any proceedings for negligence, and this, as Lord SUMNER pointed out, is not a disability for which s. 7 makes any provision. As Lord SUMNER put it: "One might accept the statement that even the issue of a writ against the respondent was beyond the [appellant's] power, much as it would have been, if though sane he had been bed-ridden and in poverty, but in the latter case no one could doubt that his disability was not one of those named in the section. Neither would it do, if he were called insane, when he was really sane."

The decision, whilst in accordance with legal principles, leaves open a dangerous gap in the legal protection of those unfortunate persons who are negligently certified insane, and who on that account are practically in the same position as if they were affected with insanity.

In conclusion, it might be noted that Lord SUMNER was of opinion that s. 331 of the Lunacy Act, 1890, and the Public Authorities Protection Act, 1893, by which that section had been repealed, did not apply, since the gist of the action was not the signing of the prescribed form of certificate, but the lack of care in examining into the plaintiff's mental state and in forming an adverse opinion about it, the claim being not for breach of a statutory duty but of a common law duty.

Reimbursement of Relief to Seamen's Families.

IT would seem that ss. 182 and 183 of the Merchant Shipping Act, 1894, which in the statute are set out under the above heading, were drafted, like a great many other enactments that justices have to construe and find some means of acting upon, by persons not really conversant with the procedure of courts of summary jurisdiction. The sections provide inadequate machinery for carrying their purpose into effect, and fail to be explicit on points of real importance, with the result that those who have to apply them in practice cannot be sure that the practice they adopt is sound, and orders made unassailable.

The difficulties in procedure arise under s. 183, but there is also a difficulty as to the subject-matter of the sections, arising upon s. 182. Section 182 declares that, "Whenever, *during the absence* of any seaman on a voyage, his wife or any of his children or step-children, *becomes* chargeable to any union or parish in the United Kingdom" sums expended "during his absence" by way of relief are to be reimbursed out of his wages, up to a fixed proportion of those wages. Cases arise where a dependant has become chargeable before the seaman departs on his voyage and the question arises whether sums

spent during his absence on relieving the dependant can be recovered by the method laid down in the sections. In our opinion they cannot. "Becomes chargeable" has its natural meaning of "begins to be chargeable." Had the statute intended to include cases where chargeability already existed the apt expression would have been "is chargeable." When another expression is used one is bound to assume that the legislature used it deliberately, and intended to restrict the operation of this remedy to those cases where chargeability commences while the seaman is away. In other enactments *in pari materiâ* carefully selected and apt expressions are used: Thus, the Vagrancy Act, 1824, s. 24, has "leaving . . . chargeable" in creating the offence of running away; "shall have become chargeable" is used with respect to neglect to maintain (s. 3). In another enactment, "becoming chargeable" is used with respect to the offence of a pauper returning to a parish from which he had been removed (Union Chargeability Act, 1865). In s. 6 of the Poor Law Amendment Act, 1844, the expression "becomes chargeable" is used in the sense of "begins to be chargeable" after some antecedent event, there the desertion of an illegitimate child by its mother.

When the question is settled what relief is to be reimbursed by this method the next question which arises is, how is it to be done?

Section 183 (1) says that the board of guardians concerned may give notice to the owner of the ship in which the seaman is serving of the proportion of the man's wages upon which it is intended to claim, requiring the retention of that money, and also requiring notice of the "seaman's return." Subsection (2) requires the owner to retain the wages, give notice to the seaman of the "intended claim," and to give notice of his return to the guardians.

So far all is simple. The difficulties arise on sub-s. (3), by which the guardians may apply to a court of summary jurisdiction having jurisdiction in the union or parish for a reimbursement order. The court may make a "summary order" for the reimbursement, and the owner must pay the amount over to the guardians, deducting it from the seaman's wages.

Is this order to be made *ex parte?* If not, who is to be summoned, the seaman or the owner, or both?

The Summary Jurisdiction Act, 1848, s. 1, enacts that "nothing therein mentioned shall oblige any justice or justices of the peace to issue any such summons in any case where the application for any order of justices is by law to be made *ex parte*," but the law, while it is frequently not at all explicit whether a particular application is to be *ex parte* or not, is distinctly jealous of such applications.

An early leading case on the point is *Painter* v. *Liverpool Gas Co.*, 1835, 3 A. & E. 433. There, on a question of distraining for sums due for gas supplied, without a previous summons to show cause why distress should not be levied, it was decided that a summons was necessary. PATTESON, J., said: "The question comes to this, whether the proceeding of the justices was judicial or ministerial; if it be judicial the justices cannot have issued their warrant without having determined some point; and that should have been upon hearing the parties."

In *Ex parte Francis*, 1903, 1 K.B. 275; 72 L.J.K.B. 120, 67 J.P. 153, Lord ALVERSTONE said: "It is a well recognised principle for many years that the rights of persons in property are not to be affected by legal process without notice of these proceedings being given to them." He allowed that these rights could be taken away, not only by express words, but also by necessary implication.

As an example of their being so taken away, we may consider the case of *White* v. *Redfern*, 1879, 5 Q.B.D. 15; 49 L.J.M.C. 19, where the question arose whether unsound meat seized by a sanitary inspector could be ordered to be destroyed on an *ex parte* application. The exception was allowed because the early destruction of such putrefying foodstuffs was essential, and delay would defeat the purpose of the statutes. The decision was approved and followed in *Thomas* v. *Vanos*, 1900, 2 Q.B. 448; 69 L.J.Q.B. 665; 64 J.P. 582, another case of the destruction of unwholesome food.

The exceptions illustrate the rule admirably.

In the present instance there seems no good reason for departing from principle. There is no need for haste; the money is held safely. On the other hand, there are good reasons for requiring a summons to the seaman. The alleged facts on which the order is sought may be contested. The woman claiming to be his wife may, in fact, not be his wife at all. Is he to have no opportunity of proving this? On the contrary, from the requirement that the money is to be retained in the shipowner's hands for twenty-one days from the date of the seaman's return and that notice is to be given by the shipowner of that return to the board of guardians, it seems that an opportunity for the issue and service of a summons is deliberately given. Moreover, the court of summary jurisdiction is to determine the amount. It may order a sum less than that claimed. This provision, too, seems to contemplate the seaman having a chance to make representations as to the amount, for what other materials could the court have on which to act?

On the other hand, there seems no reason whatever to summon the shipowner. The money is not his property, and if he act on the order to pay to the guardians, or, failing an order, act on the direction, in sub-s. (4), to pay the money to the seaman, he is fully protected.

There is, in any case, a hardship on the seaman. His port of discharge may be hundreds of miles from the court having jurisdiction in the parish where the chargeability occurs. This hardship is unavoidable. It should not be increased by refusing him any opportunity of reply at all. Considering all things, we are of opinion it is unlawful to make these orders without the issue of a summons to the seaman concerned, and the mere fact that, in practice, any order made *ex parte* is unlikely to be questioned is no good reason for departing from the sound legal principle that every man should be heard n his own defence.

A Conveyancer's Diary.

Restrictive Covenants: Burden and Benefit Annexed to Land.

The burden of a covenant entered into by a grantee of land for an estate of inheritance, and not involving a grant, does not run with the land at law so as to give a legal remedy against the owner thereof for the time being. This was the view expressed, "by way of opinion and not of decision" (see *per* Buckley, L.J., in *L.C.C.* v. *Allen*, 1914, 3 K.B. 642, 653), by three lords justices in the case of *Austerberry* v. *Oldham Corporation*, 1885, 29 Ch. D. 750, and approved by Lindley, L.J., in *Knight* v. *Simmonds*, 1896, 2 Ch. 294, 297, and by Buckley, L.J., in *L.C.C.* v. *Allen*, *supra*.

In equity, however, the position is different. The burden of a covenant which is merely restrictive of the user of land and which is entered into by a grantee of an estate of inheritance is binding upon the owner of the land for the time being (1) if, where the covenant is entered into after 1925, a land charge in respect thereof has been registered pursuant to L.C.A., 1925, s. 10, class D; or (2) unless, in case of a covenant entered into before 1926, the owner has acquired the legal estate in the land for value and without notice of such covenant: *Tulk* v. *Moxhay*, 1848, 2 Ph. 774.

The rule is that only if it was so intended are the assigns of the covenantor bound. Before 1926, a covenant which did not purport to bind such assigns was deemed to be a covenant directed not against the permanent user of the land itself, but

against the personal use and enjoyment of the land by the grantee; see *per* Sir George Turner, L.J., in *Wilson* v. *Hart*, 1866, 1 Ch. 463, 466. This rule continues to apply to covenants entered into before 1926. By s. 79 of the L.P.A., 1925, however, a covenant made after 1925 and relating to any land of a covenantor or to any land capable of being bound by him, is to be deemed to be made by the covenantor on behalf of himself, his successors in title and the persons deriving title under him or them, and is to have effect as if such successors and other persons were mentioned in the covenant. The effect of this provision on restrictive covenants should be carefully considered. It is to annex (except where there is a contrary intention) the burden of such covenants to the covenantor's land notwithstanding that the covenantor is not expressed to covenant for himself and his assigns. Hence it is now as important that an intention not to burden the land but only, say, to restrict the personal use and enjoyment thereof by the covenantor, should be as unambiguously expressed as an intention to bind the land had to be manifested before 1926.

A plaintiff seeking as owner of certain land, and not merely as a covenantee or his representative, to enforce a restrictive covenant must prove not only that the burden of the covenant is annexed to the defendant's land, but also that the benefit thereof is annexed to land of which he (the plaintiff) is owner. This he may do by showing:—

(*a*) That the covenant was imposed as to the user of the land burdened expressly for the benefit of the land which he owns. It does not necessarily follow from the mere fact that a vendor in a conveyance of part of his land obtains a covenant from the purchaser restricting his user of such part that the benefit of the covenant is automatically annexed to the land retained by the vendor, or any part of it. A clear intention must be indicated to bind the land sold for the benefit of the whole of the land retained or any defined part thereof: *Renals* v. *Cowlishaw*, 9 Ch. D. 130. Thus, a covenant by a purchaser on behalf of himself, his heirs and assigns with the vendors, their heirs and assigns does not indicate a sufficient intention to annex the benefit of the covenant to the covenantee's land. It must appear that the covenant was imposed on the purchaser for the benefit of land, and not for the personal benefit of the covenantee or his assigns. When the benefit of a restrictive covenant has been once clearly annexed to a piece of land, there is a presumption that it passes by an assignment of that land without proof of any special bargain on the assignment of the land: *Rogers* v. *Hosegood*, 1900, 2 Ch.388.

Section 78 of the L.P.A., 1925, enacts that a covenant, entered into after 1925 and relating to any land of the covenantee, is to be deemed to be made with the covenantee and his successors in title and the persons deriving title under him or them and to have effect as if it were expressed to be so made. As the learned editors of "Wolstenholme and Cherry," Vol. I, point out (on p. 261), the net effect of s. 78 is merely to render unnecessary the use of any special words in a covenant in order to make it run with the land. The section does not "make a covenant so run where it would not so run if 'successors in title'" or any similar expression had been used in the covenant.

Or (*b*) that he is the assignee of the benefit of the covenant, that is, that he is the owner of land which in the hands of the original covenantee benefited from the imposition of the covenant and that he is also the assignee of the equitable right to enforce the covenant; see *Reid* v. *Bickerstaff*, 1909, 2 Ch. 305, 320; *Ives* v. *Brown*, 1919, 2 Ch. 314.

Or (*c*) that he holds the land under a "building scheme." The conditions which give rise to a building scheme are set out in the judgment of Parker, J., in *Elliston* v. *Reacher*, 1908, 2 Ch. 374, 385. They are:—

(i) That both plaintiff and defendant derive title under a common vendor; and

(ii) that the vendor of land had laid out land, including that owned by the plaintiff and that owned by the defendant, for sale in lots subject to restrictions intended to be imposed on all the lots and which, though varying in details as to particular lots, are consistent only with a general scheme of development; and

(iii) that the restrictions were intended by the common vendor to be and were for the benefit of all the lots intended to be sold—whether or not for the benefit also of the land retained by the vendor; and

(iv) that both plaintiff and defendant or their predecessors purchased from the common vendor on the footing that the restrictions were to enure for the benefit of the other lots included in the scheme.

As is observed in the headnote to *Elliston* v. *Reacher*, *supra*: "When the four points are established, the community of interest imports in equity the reciprocity of obligation which each purchaser contemplates when he purchases."

It must be borne in mind that a covenantee cannot enforce a restrictive covenant against an assign of the land bound thereby if such covenantee is not the owner or has ceased to be the owner of land for the benefit of which the covenant was imposed: *Formby* v. *Barker*, 1903, 2 Ch. 539; *L.C.C.* v. *Allen*, 1914, 3 K.B. 642; *Chambers* v. *Randall*, 1923, 1 Ch. 149.

A study of the long line of cases on the restrictive covenants reveals the most common difficulty of plaintiffs when seeking to enforce them to be that the land intended to benefit from the covenants is inadequately or even neglected to be defined. See, for example, *Renals* v. *Cowlishaw*, 9 Ch. D. 130; *Reid* v. *Bickerstaff*, 1909, 2 Ch. 305; and *Ives* v. *Brown*, 1919, 2 Ch. 314, at p. 322; and in *Torbay Hotel Ltd.* v. *Jenkins*, 1927, 71 Sol. J. 471. The plaintiff failed in his action on this ground, Mr. Justice Clauson observing that "there is a limit beyond which the court has not yet passed, which requires that a geographical area shall be defined with reasonable clearness, within which the mutual obligations are intended to operate."

Landlord and Tenant Notebook.

Whenever the construction of a covenant is considered by the courts, it is as well to make a note thereof, and to examine the particular facts on which the question is founded as to whether there has or has not been a breach of the particular covenant.

For this reason the case of *London County Council* v. *Hutter*, 1925, 1 Ch. 626, deserves consideration.

The covenant in that case was as follows: "That the lessee . . . will not . . . cut or maim any of the principal walls or timbers of the building for the time being on the land hereby demised, or commit or permit any waste or damage to the said building, or to the floors or timbers thereof, or make or permit to be made any alteration in the elevation of the buildings or in the architectural decoration thereof."

The above covenant, in effect, consisted of three separate covenants, viz.: (1) a covenant not to cut or maim any of the principal walls or timbers of the building, (2) a covenant not to commit or permit any waste or damage to the building or to the floors or timbers thereof, (3) a covenant not to make or permit to be made any alteration in the elevation of the building or in the architectural decoration thereof.

It was alleged by the plaintiffs that breaches of all three covenants had been committed by the defendant, by reason of the following facts.

The building in question had a frontage to both Shaftesbury Avenue and Piccadilly Circus, with a rounded-off corner at the junction of the two streets, and the defendant had installed on the facade of the building on both frontages an electric

light advertisement set in a large iron framework, which was 75 feet long and 10 feet high, which ran round the whole frontage of the building at the level of the top floor. The framework was bolted to and supported by twelve T irons and eleven iron brackets, all of which were cemented into holes cut in the stonework of the wall of the building. Twenty-three holes had been cut for this purpose, each hole being about 2½ inches square and 6 inches deep, and one of these holes had been cut through the architrave of the window on the rounded corner overlooking Piccadilly Circus. The advertisement in question related to gin and had no connexion with any business carried on by the defendant or his underlessees.

Covenant not to Cut or Maim.

Notwithstanding that by the use of the expression "maim" in the above covenant one would expect that only serious damage to the walls and timbers was prohibited, Mr. Justice Tomlin nevertheless held that a breach of this covenant had been committed in the circumstances. Although the court will apply the principle of *de minimis non curat lex*, in an appropriate case, it is often very difficult to determine on which side of the line the facts in any particular case fall. Mr. Justice Tomlin appears to have arrived at the conclusion that there had been a breach of the above covenant, on the ground that on the removal of the framework of the sign, the T irons and brackets would remain as a permanent addition to the fabric unless cut out, and if they were cut out the stonework would be left holed and deteriorated.

Covenant not to Commit Waste or Damage.

Holding, as he did, that there had been a "cutting or maiming" in breach of the above covenant, the learned judge was driven to the irresistible conclusion that there had been also a breach of the covenant not to commit any waste or damage to the building.

The third covenant occasioned somewhat more difficulty.

Covenant not to make Alteration in Elevation or in Architectural Decoration.

A similar covenant was considered by Astbury, J., in *Joseph* v. *London County Council*, 111 L.T.R. 276, in which case a structure consisting of a framework of light bars to which letters made of wood and fitted with electric lights were fixed, had been erected for the purpose of advertising certain brands of whisky, etc. The frame was hung from the upper part of the premises by steel bands fastened to the ornamental stonework, and supported by struts screwed into the woodwork of the window, and could be removed in a few hours without injury to the fabric. It was held that there was no breach of covenant. The judgment of Mr. Justice Astbury will be found most instructive.

Elevation.

With regard to the meaning of the expression "elevation," Mr. Justice Astbury was of opinion that "ordinary elevation" meant the front view of a building as distinct from a horizontal plan; and that the expression "alteration" had to be limited to "alterations which would affect the structure of the building," and he came to the conclusion that the covenant referred to an alteration in the fabric and not to an alteration in appearance caused by temporary advertisements and framework, which could be removed at any time leaving the structure the same as before. Mr. Justice Astbury also approved the principle that had been expressed by Stirling, L.J., in the earlier case of *Bickmore* v. *Dimmer*, 1903, 1 Ch. 158, to the effect that there must be excepted from the covenant, not only things absolutely essential to the carrying on of the business, the carrying on of which might be contemplated in the lease, but also things fixed to the premises for the purpose of carrying on such business in a reasonable, ordinary and proper way.

Alteration.

While not dissenting from any of the propositions of law laid down in *Joseph* v. *London County Council* and *Bickmore* v. *Dimmer*, Mr. Justice Tomlin distinguished these cases and held that they did not apply to the facts in *London County Council* v. *Hutter*.

In his judgment Tomlin, J., said (1925, 1 Ch., at p. 632): "In my opinion . . . there has been within the meaning of the covenant, not only an alteration in the architectural decoration *by the cutting through of part of the architrave* . . . but also an alteration in the elevation of the building, by the cutting of holes in the stone and the *permanent embedding therein of the T irons and iron brackets*. Further, the alteration is not one which was reasonably incidental to the ordinary user of the premises, and cannot in my opinion fall within any such exception as is illustrated in *Bickmore* v. *Dimmer*."

It will be noted that in *London County Council* v. *Hutter* the advertisement had no connexion whatever with any business that was being carried on, upon, or with any user of the demised premises.

In conclusion, attention might be drawn to the fact that Mr. Justice Tomlin made a *mandatory order* for the removal of the advertisement. As to the circumstances in which such an order should be made, reference may be made to the *dicta* of Cozens Hardy, L.J., in *Bickmore* v. *Dimmer*, 1903, 1 Ch. 168, where the learned Lord Justice said that "when a man who has entered into a covenant of this kind deliberately, after notice of objection, commits a breach of it, and there has been no laches on the part of the covenantee, it would be a most dangerous doctrine to hold that a mandatory injunction ought not to be granted."

Obituary.

JUDGE E. J. FLYNN.

Judge Edmund James Flynn, Puisne Judge of the Court of King's Bench of the Province, has died at Quebec.

Judge Flynn was born in the Province of Quebec on 16th November, 1847, his father being Irish and his mother of Guernsey descent. He was educated at Quebec Seminary and Laval University, and was admitted to the Bar in 1873, taking silk in 1887. He was *bâtonnier* of the Quebec Bar in 1907-9. From 1878 to 1904 he was a member of the Provincial Assembly as a Liberal-Conservative, and held office as Commissioner of Crown Lands, 1879 to 1882, Minister of Railways and Solicitor-General, 1884 to 1887, Minister of Crown Lands, 1891 to 1896, and Prime Minister, 1896-7. From 1897 to 1905 he was Leader of the Opposition in the Provincial Assembly. He was formerly Professor of Law and Dean of the Faculty of Law at Laval University. In 1914 he was raised to the Bench of the Province, and in 1920 was promoted to be Judge of the Court of Appeals. The late Judge was twice married; he had eleven children by his first marriage. W. P. H.

DEATH OF THE MIDDLE TEMPLE HEAD PORTER.

One of the most remarkable and respected figures in the Middle Temple has just passed away in the person of the head porter, Mr. Thomas O'Connor, who, with his martial bearing and heavy white military moustache and grand salute, had for many years been one of the most popular officials of the Inn. He died in Charing Cross Hospital on Sunday, after a few days illness. He was seventy-three years of age.

The Master of the Temple conducted the funeral service at Manor Park Cemetery.

For the Sunday services at the Temple Church O'Connor always appeared in his gorgeous robes of office, with cocked hat and silver staff, a relic of Stuart days, to usher the Middle Temple worshippers to their correct side in the church. He was a devoted servant of the Inn, and a unique cicerone, who has left nothing but warm memories behind him.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of the paper only, and be in triplicate. Each copy to contain the name and address of the Subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

SETTLED DEVISE—PRE-1926 ASSENT BY EXECUTOR—WHEN IMPLIED.

817. *Q.* A who died in 1917 being seised of certain freehold property by his will gave such property to his wife for life, and afterwards to his four children and grandchildren named therein, absolutely in equal shares, and appointed his wife B sole executrix. B died in 1926 intestate and administration of her estate (not including the settled land) were granted to C a son of B and one of the remaindermen under the original will. C has now in 1927 taken out letters of administration *de bonis non* to the unadministered estate of the original testator A. At the death of A the property was subject to a mortgage and the tenant for life applied the rents of the property in part satisfaction of the interest. This mortgage was not discharged until after the death of B, when in 1927 the balance of principal owing thereon was paid off by C as the personal representative of the testator A. It is now desired to sell the property and in view of the fact that the mortgage was undischarged until the death of the life tenant and that no assent has ever been executed, it is suggested that the legal estate would not vest on 1st January, 1926 in B, as tenant for life, but would remain in her as personal representative of the original testator A. If this view is correct it is presumed that C could sell the property as personal representative of A, as it is desired he should do. Does this accord with your views or in the alternative what must C do to make a title?

A. Primâ facie after the first year an executor must either assent to a devise or show cause why he has not done so. Here the land subject to the settled devise was in mortgage. Would then an executor have been justified in withholding assent for such reason? Pursuant to the L.T.A., 1897, s. 3 (1), assent could be made subject to the mortgage. The matter is discussed at some length in "Brickdale Land Transfer Acts," 2nd (last but one) edition, pp. 293-4, to the conclusion that assent could safely be made subject to a charge for the mortgage moneys in favour of the personal representatives. If an assent could safely be made, it ought to be made, and the court would imply it in a proper case if there was nothing to rebut it. On the above reasoning B took the legal estate in fee simple on 1st January, 1926, under the L.P.A., 1925, 1st Sch., Pt. VII, para. 3, as tenant for life and not as executrix. Having regard, however, to the A.E.A., 1925, s. 36 (8) (overriding *Re Verrell*, 1903, 1 Ch. 65) and (12), C may nevertheless be able to give title as executor *de bonis non* to A.

PROPERTY CONVEYED TO TWO, AS "PARTNERSHIP PROPERTY"—MONEY FOUND BY LIMITED COMPANY—TITLE.

818. *Q.* In 1910 A and B, who were in partnership sold their business to a private company, formed to acquire it. They became principal shareholders in and Directors to the company. In 1920 freehold property was conveyed to A and B "in fee simple as part of their partnership property." The purchase-money was found by the Company and the property has, since the purchase always appeared as assets in the books and balance sheets of the company but it has never been conveyed to the company, nor has there been any declaration of trust in regard to it. In 1923 B died, leaving a will which was duly proved by his executors. In 1927 A contracted to sell the property in question to C. He purported to contract as liquidator of the company, but there is a doubt whether some of the formalities necessary for putting the company into liquidation were observed. Looking at the matter from C's point of view, how can a good conveyance be made to him? There is no time to go into the question whether the company has been properly put into liquidation or not, so there must be a doubt upon that point. A's solicitors suggest that A can make a good conveyance as surviving partner, but that does not seem right. A question somewhat in point appeared "in another place," on the 12th inst., and the replies showed what lack of unanimity there is with regard to some of these new law *conundra*.

A. Some little difficulty arises because it is not stated how the questioner, who is presumably C's adviser, knows all the above facts. If C has actual notice of them, or constructive notice under the L.P.A., 1925, s. 199 (1) (ii), he cannot accept title from A as surviving partner, for by the 1st Sch. Pt. II, paras. 3 and 6 (*d*), and in accordance with *Re Carnarvon*, 1927, 1 Ch. 138, the fee simple vested in the company on 1st January, 1926, and, with notice, he is not protected by the L.P.(Amend.)A., 1926, Sch., amending the L.P.A., 1925, 1st Sch., Pt. II, para. 3. Therefore he can only accept title from A as liquidator, with the proper proofs involved. If on the other hand C has no notice of the company's title, he may have some notice of equities by the habendum as to partnership property. A being a trustee, however, the L.P.A., 1925, 1st Sch., Pt. IV, para. 1 (1), would give A a trust for sale in case of undivided interests, and he could sell subject to appointing a co-trustee to give receipt. But a requisition as to the partnership, which would have to be made, would presumably give rise to an answer giving notice of the true facts, so C can only be advised to accept title from A as liquidator.

[Readers will please note that *Re Carnarvon, supra*, overrules the opinion which was given in the answer to *Q.* 326, p. 685, Vol. 70, on the operation of para. 6 (*d*), supra, with, however, the reservation that "the question would without doubt find opinion of equal or greater weight to the opposite effect, and he can only be advised that no reliable answer can be given to him." Romer, J.'s, conclusion was, it is true, on the S.L.A., 1925, and so *obiter* on the L.P.A., 1925, but it was given in general terms: see p. 144.]

UNDIVIDED SHARES—TITLE.

819. *Q.* J.T. by a home-made will left all his property to his wife, M.A.T. for life, and after her death "requested" that all his property should be sold and divided out equally amongst his four children. He further directed "the houses and furniture etc., to be sold as soon after the decease of my wife as convenient." No executor was appointed, but testator appointed H.P. "as trustee for the under-mentioned J.T." J.T. died in 1909. His widow survived and died in 1916. The will was not proved till after the widow's death, when one of the children took out administration with the will annexed. The estate consisted in the main of cottage property. The personalty has been realised, all debts and duties etc., paid, but the administrator has been unable to sell the cottage property hitherto. An offer has now been received, Who can convey? It is presumed that the legal estate is in the administrator, that it will be necessary to enable receipts to be given for H.P. to appoint a second trustee, and that the administrator should convey to the trustees, who could convey in pursuance of the trust. Would there be any objection, after the appointment of a second trustee, to the conveyance being

effected by one deed, the administrator conveying as personal representative by the direction of the trustees, and the trustees as trustees conveying and confirming ?

A. A legal estate is vested in an administrator, and under the present law remains so vested until assent or conveyance, but, under the law before 1926, on the completion of administration, and in pursuance of the doctrine stated in *Wise* v. *Whitburn*, 1924, 1 Ch. 460, it vested in the person to whom assent was implied. The question whether, under the above will, H.P. took a legal estate, is obviously not without difficulty, but it has been laid down that " when trustees are directed to do anything for the performance of which the legal estate is requisite, then they are to have the legal estate " : see *Anthony* v. *Rees*, 1831, 2 Cr. & J. 75, at p. 83. On this authority it might be argued that the legal estate was vested in H.P., who could sell when he had appointed a co-trustee to give receipt, but on the other hand, a person with a power of sale over the fee, like a mortgagee, need not necessarily have the legal estate in it. If H.P. did not take a legal estate, and the four children are alive and *sui juris* and have not incumbered their several shares, the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (2), would have applied to give them a trust for sale. If any of them had incumbered or died, para. 1 (4) would have applied, and the property would be vested in the Public Trustee and could be divested in the usual way under para. 1 (4) (iii). In any of these suggested alternatives the title is a simple one, and a purchaser could be given his choice if the one offered to him was not acceptable.

WILL—REALTY—FOREIGN TENANT FOR LIFE AN ADMINISTRATOR—ATTORNEY FOR GRANT—DEATH OF TENANT FOR LIFE—DEATH DUTIES—WINDING UP ESTATE.

820. *Q.* Under the will of A, who died in 1907, her husband B (an Italian) was entitled for life to the income from real property and railway stocks in England. Grant of letters of administration with will of estate of A was taken out in the Principal Registry in 1917 by C as attorney for B (two similar grants of administration had previously been taken out by deceased attorneys). Settled land trustees were appointed by the court in 1913 and portion of the real property was sold and proceeds invested in stocks in the names of the trustees. In March 1926 a vesting deed in respect of the settled real property was executed in favour of B. B died in November, 1926, leaving a will dealing with Italian property. On B's death, the estate subject to A's will, devolves as follows: Settled real property and furniture therein and the above stocks to X; railway stocks to Y; residuary personal estate to persons entitled under Italian law. C has in his hands income apportioned to date of B's death and a small balance of cash on deposit at bank. He has claimed from X refund of estate duty paid on A's death in respect of settled real property, this duty having been paid out of A's personal estate. The settled land trustees are applying for grant of probate of B's will limited to the settled land. They will, as special executors, then execute an assent in favour of X and transfer to him the stocks. It is assumed that C's authority as attorney administrator ceased on B's death. The only duty claimed on B's death is succession duty. Accounts for this are to be delivered by X and Y.

(1) Must grant of *de bonis non* be taken out in respect of unadministered estate, or is it sufficient if C's appointment as attorney is confirmed by B's Italian representatives ?

(2) Will estate duty be claimed when limited grant of probate is applied for by the special executors ? Will this grant include the stocks representing sale proceeds of settled land ?

(3) Will all costs in connexion with obtaining limited grant of probate by the special executors and assent and transfers by them be payable out of general personal estate in the hands of the attorney administrator ?

A. (1) The actual administration of the estate of A—payment of debts, funeral and testamentary expenses, death duties, etc.—was presumably complete long before 1st January, 1926 and a court would assume implied assent to bequests and devises in trust: see *Wise* v. *Whitburn*, 1924, 1 Ch. 460, and cases cited. This being so, the opinion is here given that C was acting as mere agent for B in collecting rents, and that the only person who can give C a receipt for B's money now in his hands is B's English general legal personal representative. The person so constituted, if C, or some person other than B's Italian executors, will pay the English death duties on his free estate and all the debts, including any debts or commission to himself, and remit the balance to the Italian executors, in accordance with *Re Kloebe*, 1884, 28 C.D. 175, and similar authorities. On the assumption that A's estate has been fully administered as above, a grant *de bonis non* is unnecessary and would not be made.

(2) Estate duty will be due, and so, no doubt, will be claimed, unless the F.A., 1914, s. 14 (*a*), applies to continue the exemption contained in the F.A., 1894, s. 5 (2). The stocks representing the proceeds of settled land are not " land " within the S.L.A., 1925, s. 117 (1) (ix) and (xxiv), and consequently not " settled land " within the A.E.A., 1925 : see s. 55 (1) (xxiv). They will therefore not be included in the limited grant.

(3) Not, of course, out of the general personal estate of B. The A.E.A., 1925, s. 23 (5) (*d*), provides that rules may be made how such costs should be borne, but none appear to have been published. So *primâ facie* the costs must be borne out of property subject to the settlement. If by arrangement the special representative cannot be recouped his expenses out of the proceeds of sale of the settled land which has been sold, he may raise them by a charge on the property vested in him.

SETTLED LAND—DEATH OF TENANT FOR LIFE—REMAINDERMEN ABSOLUTELY ENTITLED—PROCEDURE.

821. *Q.* A, who died in 1923, by his will appointed his wife B his executrix, and after specific bequests devised and bequeathed the residue of his property to B for life, and after her death then as to a portion of his freehold property to his son C absolutely, as to another portion to his daughter D absolutely, and as to another portion to his daughter E absolutely. No trustees of the settled land were appointed by B, who died in November, 1926, having by her will appointed D and E her executrices, and to whom probate has been granted, including settled land. It is now desired to vest in C, D and E the properties devised to them by the will of A.

(1) Can D and E execute the necessary assents or must they appoint trustees who would afterwards execute a vesting deed ?

(2) Is the freehold property still settled ? If so, presumably the assent must take the form required by the S.L.A., 1925, and before C, D or E could be free from the trusts a deed of discharge would have to be executed under s. 17 of the Act.

A. (1) D and E can and must execute or sign the necessary assents after paying or providing for death duties : see S.L.A., 1925, s. 7 (5).

(2) Since the reversioners each take absolutely, there is now no settlement of any of the land subsisting within the S.L.A., 1925, s. 1. Unless B executed a vesting deed in her own favour and the appointment of D and E is endorsed on it, they are not qualified to execute a deed of discharge under s. 17, but the respective titles will be in order notwithstanding.

WILL—OPTION TO PURCHASE—HOLDER OF OPTION SOLE EXECUTOR—PROCEDURE.

822. *Q.* X appointed A and B, his two sons, executors of his will, by which he left (*inter alia*) two leasehold houses—in their respective occupations—to his two executors, giving each of them an option to purchase the same respectively at a valuation. A proved the will, power being reserved to B. A wishes to exercise his option to purchase. Can A convey the property to himself under s. 72 of the L.P.A., 1925 (the necessary formalities as regards the valuation of the property as mentioned in the will having been complied with) ?

A. Yes; in fact, this seems a typical case for the use of s. 72 (3). The conveyance should preferably recite that the estate had been cleared, for it might be that the option given was to some extent bounty. Since an individual cannot even yet covenant with himself, there can be no implied covenants for title.

HUSBAND ABSOLUTELY ENTITLED TO WIFE'S ESTATE—FEE SUBJECT TO MORTGAGE—TITLE.

823. *Q.* A, wife of B, dies intestate leaving real and personal estate to the value of £700. The deceased left one child by a former husband. The real estate consists of a dwelling-house valued at £600, on which there is a building society mortgage now reduced by repayments to £374. The value of the real and personal estate being under £1,000, B is entitled to the same (A.E.A., 1925 (1) (i)). He now wishes to give a second mortgage on the dwelling-house to a bank to secure the account of a business in which his stepson is a partner. B is applying for a grant of administration to the estate of A, and when the grant is made the real estate will vest in him as personal representative on trust for sale. To give B a title to create the second mortgage B, as personal representative, proposes to appropriate the real estate to himself in fee simple, subject to the first mortgage (s. 41), and to assent to the appropriation (s. 36 (1)). It seems doubtful whether an assent without appropriation would be effective. Is the suggested procedure correct?

A. Since the husband alone is entitled to the wife's estate, appropriation hardly seems necessary, for, whether he appropriates or not, he can assent to himself only, and an administrator must make assent to a beneficiary when he has cleared the estate. The advice is therefore given that the bank will be safe after assent, either with or without appropriation. A memorandum of the assent should be made on the letters of administration pursuant to s. 36 (5) of the Act.

L.P.A., 1922, s. 129—VESTING DEED—FURTHER CHARGE ON MORTGAGE—WHETHER "ASSURANCES."

824. *Q.* X by his will dated the 10th May, 1923, devised all his property to his son B upon trust to permit his (X's) wife A to receive the rents and profits thereof for life, and after her death to his son B, the sole executor and trustee thereof. On the 7th May, 1924, B was admitted tenant as devisee in fee in remainder, subject to the life interest therein of A to all the copyhold hereditaments devised to him by the said will on the death of the said A, as in the said will mentioned. On the 29th July, 1924, B and A surrendered in mortgage the aforesaid copyhold hereditaments to trustees for the Y Bank. By virtue of the L.P.A., 1922, the property became enfranchised on the 1st January, 1926, subject to the manorial incidents saved by the said Act, and by virtue of the L.P.A., 1925, the estate in fee simple, which was prior to the commencement of the said Act vested in the trustees for the Y Bank, was converted into a term of 3,000 years, which term is now vested in the Y Bank. By virtue of the S.L.A., 1925, s. 1, the land became settled land, and by the same Act vested in A as tenant for life. B has appointed A as an additional trustee for the purposes of the S.L.A., 1925, and a vesting deed vesting the settled land in A as tenant for life has been executed by them. A has now executed a further charge in favour of the Y Bank.

(1) Since the S.L.A., 1925, vests the legal estate in the tenant for life, A, is it necessary to produce the vesting deed to the steward of the manor for inspection and indorsement as being a vesting declaration or assurance within the meaning of s. 129 of the L.P.A., 1922? It is submitted that it is not necessary to produce the vesting deed, as such deed does not operate to transfer or vest the legal estate in the tenant for life, such estate being already vested in her by the S.L.A., 1925, and further that if it is necessary to produce the vesting deed to the steward, no fees will be payable, since, on the 1st of January, 1926, there was an admitted tenant on the court rolls, and the effect of the Act was to vest the estate in fee simple in someone else, the change being purely statutory.

(2) It is also submitted that the further charge created by the tenant for life will not come under the definition of an assurance as defined by s. 129 (9) of the L.P.A., 1922, and will therefore not have to be produced to the steward.

A. (1) This point has already been considered in these pages. It may be a good one, but until s. 129 is clarified by decision, purchasers of land formerly copyhold cannot afford to take the risk, having regard to s. 13 of the S.L.A., 1925, that a vesting deed is avoided under s. 129 (1) of the 1922 Act. Thus, if the vesting deed is not endorsed as required by sub-s. (3), there will probably be trouble as to the title. If the vesting deed is produced to the steward, all the payments mentioned in sub-s. (2) must be made before he need endorse his certificate, but, assuming that the 12th Sched., para. 8, prov. viii, applies (as to which assumption, see answer to *Q.* 196, Vol. 70), no fines and fees are payable by reason of the fee vesting in the tenant for life.

(2) This will be a matter for the Y Bank to consider. The opinion is here expressed that a further charge, if it takes effect as a mere alteration of the sum owed, is not an "assurance" of property within s. 129, *supra*, but, in the face of any possible doubt, a mortgagee could hardly be advised to take any risk that his security might be held void. It is, of course, assumed that A's further charge is one which would bind the inheritance.

COPYHOLDS—DEFINITION—L.P.A., 1922, s. 139 (*a*).

825 *A.* A.B. has recently purchased a small property in Suffolk, which was sold to him subject to a free rent apportioned for the purposes of the sale at eight shillings payable annually, and on death or alienation to the lord of a manor. The property has now been conveyed to A.B. by an ordinary form of conveyance in which the habendum runs as follows:—"To hold unto the purchaser in fee simple subject to a free rent apportioned for the purposes of this sale at eight shillings payable to the manor of X.Y. annually and upon death or alienation." There are numerous cases in the county of Suffolk where lands are subject to free rents and such lands have always been conveyed by the usual conveyance applicable to freehold land—in some cases the free rent being referred to and in other cases not. In certain manors the successive owners of the lands subject to such free rents have signed what is known in the local manors as acknowledgments of free tenure and which acknowledgments have been entered on the court rolls. A question has arisen as to whether or not it is necessary to produce the above-mentioned deed of conveyance to the steward of the manor under s. 129 (1) of the 1922 Act. It would appear that land held in free and common socage is not customary land or customary freehold land of which the freehold is in the lord, and not in the customary tenant within the meaning of s. 189 (*a*) of the 1922 Act. This last-mentioned section appears to refer to the peculiar species of copyhold tenure prevailing more particularly in the North of England, where the land is held by copy of court roll, but not at the will of the lord, and in respect of which it has been held by the courts that the freehold is in the lord, and not in the tenant. An opinion is desired as to whether or not the land subject to the free rent mentioned above is copyhold land within the meaning of s. 189 of the 1922 Act, necessitating the production of the conveyance to the steward of the manor under s. 129 (1) of the 1922 Act. The point is of particular interest, because, as mentioned above, there are a number of similar free rents payable to the lords of various manors in the county of Suffolk.

A. Assuming the freehold is in the tenant, and that no entry on the court rolls of the manor is necessary to perfect conveyance, this land would not be "enfranchised land" within the L.P.A., 1922, ss. 128 (1) and 129 (1), for it would not have been copyhold within s. 189 (*a*). Very many freeholds

are of course, subject to quit rents in lieu of ancient manorial services, and such rents can be redeemed under the L.P.A., 1925, s. 191. The payments upon death or alienation are not of this nature, but can be redeemed under s. 138 of the L.P.A., 1922, which expressly includes all manorial incidents affecting land other than enfranchised land.

SURVIVOR OF JOINT TENANTS—SALE—TITLE.

826. *Q.* In 1909 two sisters, A and B, purchased a house partly freehold and partly copyhold which, as to the freehold portion thereof, was conveyed to A and B in fee simple as joint tenants, and, as to the copyhold portion thereof, to the use of A and B in customary fee simple as joint tenants. A died in December, 1926. B has now sold the house. Can B alone convey the house to the purchaser? It is, of course, presumed that B will have to pay succession duty on the death of A. No severance of the joint tenancy was made in A's lifetime.

A. B can convey: see the addition to the L.P.A., 1925, s. 36 (2), made by the L.P. (Am.) A., 1926, Sched. Succession duty is payable under s. 3 of the S.D.A., 1853, and, since B sells, not as trustee for sale, but as beneficial owner entitled by survivorship, the shifting of the charge to the proceeds of sale under s. 42 hardly seems applicable, and the purchaser should see that the duty is paid. He should also have a recital that there was no severance of the joint tenancy.

Reviews.

The Registrar-General's Statistical Review, 1925. H.M. Stationery Office. 5s. net.

This is the final of the three annual volumes constituting the Statistical Review, and contains the official analysis of the vital statistics contained in Parts I (Medical) and II (Civil), both of which were issued last year. The Report discloses only a slight variation in the marriage and birth rates for 1925 as compared with the previous year, whilst the death rate of 12·2 per 1,000 of the population, and the deaths of infants under one year (seventy-five per 1,000 births) remain identical. On the other hand, the deaths of mothers from child-birth per 1,000 births have increased from 3·90 in 1924 to 4·08. Separate sections are devoted to (i) Estimates of Population, (ii) Marriages, (iii) Births, (iv) Deaths, (v) Vital Statistics, (vi) Parliamentary and Local Government Electors, and (vii) Meteorology. The present volume completes the first quinquennium of the new series of the Statistical Review and affords an opportunity of summarising the yearly figures relating to the monthly incidence of deaths from various causes in England and Wales, which were first tabulated in 1921. The results for the most important causes are discussed in the text and reproduced in diagrammatic form to facilitate the study of the figures. A new feature is the Table of Death Rates by age and sex for the past twenty years showing the changes in the mortality from accidental burns. The reductions at ages two to fifteen years is noticeable.

In view of the increased public interest in diabetes, tables have been constructed which show the changes in the sex and age incidence of the mortality from this cause in each year since the discovery of insulin. Formerly the mortality from this disease was greater among males than females, but in recent years the position has been reversed owing mainly to the increasing mortality among females at higher ages.

An analysis of deaths from bathing, by age and month of occurrence, specifying whether in fresh or salt water, has yielded some very interesting results. W. P. H.

Restraint of Trade in English Law. With a Supplementary Chapter as to Legislation in the British Possessions and other Countries, with respect to Combinations in Restraint of Trade. By WILLIAM ALEXANDER SANDERSON. London: Sweet & Maxwell, Ltd. 1926. xxiv and 208 pp. 15s.

Dr. Sanderson has set himself the twofold task of explaining what the present position of English Law as to that difficult subject "Restraint of Trade" is, and how that position has been brought about. This task he has performed with distinction, for his work is obviously the result of great industry, allied with marked ability to read cases and statutes in the way in which they ought to be read, and to present to the reader the true underlying principle in each case.

The subject is dealt with in two parts. In Part I we have "Contracts in Restraint of Trade"—the evolution of the modern test of the validity of such contracts being carefully traced and the application of that test in recent cases being analysed. The subject matter of Part II is "Combinations in Restraint of Trade," under which heading is given an adequate historical survey of such subjects as monopolies, the common law offences of engrossing, forestalling and regrating, the old combination laws and the position of combination in modern English law. It is thought that the range of subjects covered in this second part might well have been extended. The chapter in this part which gives a summary of the law as to combinations in force in the British possessions and in certain other countries such as the United States, France, Germany and the British possessions, is peculiarly instructive and supplies data for an interesting comparative study.

Books Received.

Criminal Appeal Cases. Vol. 20, pp. 29-52., Part 2. HERMAN COHEN. 1927. Sweet & Maxwell Limited. 7s. 6d. net.

News Sheet of The Bribery and Secret Commissions Prevention League Incorporated. No. 137. 28th May, 1927. 22 Buckingham Gate, S.W.1.

The Irish Law Times and Solicitors' Journal. Vol. xli. No. 3148. 28th May, 1927. JOHN FALCONER, 53 Upper Sackville-street, Dublin. 1s. net.

The Criminologist. Vol. I. No. 1. 15th May, 1927. John Missenden Limited, Clipon Works, Harlesden, N.W.10. 1s. net.

The Panton Magazine—A quarterly Review of Literature and the Arts. April-June, 1927. The Panton Arts Club, 1s. 6d. net.

The Rating and Valuation Act, 1925. Second Series of Representations made to the Minister of Health by the Central Valuation Committee and circulated to Local Authorities. H.M. Stationery Office. 2d. net.

Reports on the Public Health and Medical Subjects. No. 43. 1927. The Determination of Sulphur Dioxide in Foods. G. W. MONIER-WILLIAMS, O.B.E., M.A., Ph.D., F.I.C. H.M. Stationery Office. 1s. 3d. net.

The Juridical Review. Vol. XXXIX. No. 2. 1st June, 1927. W. Green & Sons Limited, 2 St. Giles-street, Edinburgh. 5s. net.

Gibson & Weldon's Student's Probate and Divorce. An explanatory Treatise on the Law and Practice in Probate and Divorce matters. Tenth Edition. ARTHUR WELDON, Solicitor. H. GIBSON RIVINGTON, M.A., Oxon, and A. CLIFFORD FOUNTAINE. Medium 8vo. pp. liii and 340, with Index. The "Law Notes" Publishing Offices, Chancery-lane, W.C.2. 21s. net.

Some famous Medical Trials. LEONARD A. PARRY, M.D., B.S., F.R.C.S. Large Crown 8vo. pp. x and 326. J. & A. Churchill, 7 Great Marlborough-street. 10s. 6d. net.

The Incorporated Accountants' Journal. Vol. XXXVIII. No. 9. June, 1927. The Society of Incorporated Accountants and Auditors, 50, Gresham-street, E.C.2.

Supplement to Dominion Income Tax Relief—Law and Practice. ARNOLD STAPLES. 1927. Gee & Co. (Publishers), Ltd., Kirby-street, E.C.1. 1s. 6d. net. W. P. H.

House of Lords.

Harnett *v.* **Fisher.** 27th May.

LUNACY—ACTION FOR WRONGFUL CERTIFICATION—PLAINTIFF FOUND TO BE SANE—STATUTE OF LIMITATIONS—DISABILITY OF PLAINTIFF.

In an action for damages against a medical man for wrongfully certifying that the plaintiff was a lunatic, the jury found that the plaintiff was sane, but judgment was entered for the defendant on the ground that the action was barred by the Statute of Limitations. To prevent time from running in such a case the plaintiff must be non compos mentis *; it is not enough that he is in the same position as if he had really been a lunatic.*

This action was brought by the appellant, W. S. Harnett, farmer and fruit grower, against Dr. Fisher, a duly qualified medical man, for negligence in signing a medical certificate under the Lunacy Act, 1890, to the effect that the appellant was a lunatic and a proper person to be detained under treatment. The certificate was signed on 10th November, 1912, and the writ in the action was issued on 31st May, 1922. The jury found that the appellant was sane, and that the respondent had not acted with reasonable care. After argument the judge gave judgment for the respondent, on the ground that the appellant's right of action was barred by the Statute of Limitations. That judgment was affirmed by the Court of Appeal subject to a variation on the question of costs.

Lord SUMNER said if the appellant never had been *non compos mentis* he could not bring himself within the disability section, s. 7, of the Act of James, and the period of six years ran from 10th November, 1912. He could not be allowed to blow hot and cold, and to say for the purpose of getting damages that he was sane all along, and yet for the purpose of meeting the plea of the statute that he must be deemed to have been insane so as to prevent time from running. The appellant said that under the Lunacy Act, and for its purposes, he was made a lunatic and treated accordingly, that for the purpose of bringing this action he was as much disabled as if he had been *non compos mentis*, and that the Act should be read as bringing that state of things within the disability section. To this it must be said that the Act did not say so, and could not be made to say so without wresting it from its language in a way that was not permitted to them. The present action was an action on the case, and was *primâ facie* statute-barred unless the appellant could bring himself within the words *non compos mentis* in the disability section. Those words described an actual mental condition which the jury's word "sane" negatived, and not a treatment imposed or disability suffered because the plaintiff had been wrongly supposed to be in that mental state, even though brought about by the defendant himself. The question was not, as the appellant put it, of the status of a lunatic imposed on him, but of his mental condition of sanity or insanity, and that had been finally disposed of in his favour by the verdict. He (Lord Sumner) was not concerned to justify what the Legislature had enacted or to regret that it had gone no further to assist persons in the appellant's position. He therefore agreed entirely with the decision of the Court of Appeal. A question had been raised whether the right statutory limitation had been relied on. All their lordships were of opinion that leave to amend ought to be granted to the respondent under the circumstances to plead the Public Authorities Protection Act, 1893, but it appeared to him that no amendment was needed, because it really was the statute of James that applied to this case. The claim was not for breach of a statutory but of a common law duty. Negligence as a medical practitioner acting in the course of his private practice was what was charged against the respondent. He thought that whether the pleadings were amended or not the appeal ought to be dismissed with costs.

The other noble and learned lords concurred.

COUNSEL: The appellant appeared in person; *Neilson*, K.C., and *T. Carthew*.

SOLICITORS: *Harry Coulson; Le Brasseur & Oakley.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Gough.** Astbury and Clauson, JJ. 23rd March.

BANKRUPTCY—DISCLAIMER—BANKRUPT'S CONTRACT WITH SUB-PURCHASER DISCLAIMED—BANKRUPT'S CONTRACT TO PURCHASER NOT DISCLAIMED—RIGHT OF THE TRUSTEE TO TAKE THIS COURSE—BANKRUPTCY ACT, 1914, 4 & 5 Geo. 5, c. 59, s. 54.

Where A contracted to sell land to B, and B contracted to sell a part of that land to C and to build a house on that part, and B went bankrupt without completing his contract to build or completing his contract with A, and his trustee in bankruptcy disclaimed the contract with C but not the contract with A,

Held, that C was not entitled as of right to have such disclaimer declared void, but only to pay the price at which A agreed to sell to B, the trustee having offered this, and to prove in the bankruptcy for her deposit and for damages sustained in consequence of the breach by the bankrupt of his obligation to build.

Appeal.

This was an appeal from the County Court at Wolverhampton. The facts were as follows: By an agreement made in August, 1925, one Gough contracted with one Marshall for the purchase of certain land for development as a building estate at the price of 5s. per square yard, and it was therein provided that Gough might require the land to be conveyed at any time before 31st August, 1926, to any sub-purchaser from him in such quantities and at such times as he might require. On 17th May, 1926, Gough contracted to sell to Miss Hanning a plot forming part of the building land he had so contracted to purchase from Marshall at a price of £600 and contracted to build thereon a house in accordance with an approved plan. He also by another agreement of about the same date contracted to sell her another plot for £50. And in pursuance of these agreements she paid him £105 in all by way of deposit. The vendor was adjudicated a bankrupt on 2nd July, 1926, and on 6th December, 1926, the trustee in his bankruptcy disclaimed the agreements which the bankrupt had entered into with Miss Hanning, but did not disclaim the bankrupt's own agreement to purchase from Marshall. Miss Hanning moved the county court judge for a declaration that the purported disclaimer was void and that her agreement with Gough was binding on the trustee, and that on payment of the balance of the purchase-money he be ordered to complete. The date for the completion of Gough's agreement with Marshall was fixed for 31st July, 1926.

CLAUSON, J., after stating the facts, said: At the request of Astbury, J., I am delivering the judgment of the court. The trustee having thought fit to disclaim the bankrupt's contract with the appellant, but not to disclaim his contract with Marshall, the position of the parties before adjudication was that the bankrupt was entitled in equity to the two plots of land subject to his paying Marshall the admitted amount of £126 10s. As between the bankrupt and the appellant, were the contract one simply for the sale of the land for £650, the appellant would be entitled to specific performance on payment of the balance of the purchase-money. But the bankrupt is not in a position to perform his part of the contract until he has completed his contract with Marshall by paying him for the two plots. But the contract with the appellant to sell the plots is coupled with the obligation to build, which the bankrupt has not performed, and according to the decision of *Soames* v. *Edge*, 1860, John. 669, the appellant has a right, on waiving the performance of that obligation, to specific performance of the contract to sell the land upon payment of the balance of the purchase-money, and further, she is entitled

to damages for breach of the contract to build, and in respect of which since the bankruptcy she is entitled to prove. She cannot have specific performance of the contract as a whole, nor can the court sever the contract and apportion the consideration between the land and the building, since that would be making a new contract for the parties. Was the trustee entitled to disclaim the contract? He is not entitled to do so if the effect of his disclaimer is to deprive the appellant of those equitable rights to which she is, as before mentioned, in the opinion of the court entitled. But she has declined to accept relief on those terms. She is entitled to a lien on the land in respect of the deposit money, but subject to the overriding lien to which Marshall is entitled in respect of the purchase-money of £126 10s. under his contract with the bankrupt. The trustee having offered to convey the land to the appellant for the price which the bankrupt had contracted to pay to Marshall, viz., £126 10s., the appellant would have the opportunity given to her of accepting that offer, in which case she would have the right to prove in the bankruptcy for the deposit and also for damages sustained in consequence of the breach by the bankrupt of his obligation to build. Subject to the appellant's acceptance of that offer, the disclaimer by the trustee will be declared invalid and the appeal dismissed.

COUNSEL: *Clayton*, K.C., and *Stable*; *Hansell*.

SOLICITORS: *Hall & Sons*, for *Steele & Duckworth*, Halifax; *Indermaur & Brown*, for *Manby & Steward*, Wolverhampton.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

Torbay Hotel Limited *v.* **Jenkins and Another.**

Clauson, J. 3rd, 4th, 8th and 29th March.

COVENANT—RESTRICTIONS—MUTUAL OBLIGATIONS—COMMON INTENTION—RIGHTS OF PURCHASERS *inter se*—UNDEFINED AREA OF MUTUAL OBLIGATIONS—BENEFIT ANNEXED TO LAND.

Even though a common intention that there shall be mutual obligations intended to enure for the benefit, inter se, of all persons who become owners of parts of a named estate, is proved, the geographical area of such named estate must be defined with reasonable clearness to enable such obligations to be enforced by an owner of one part of the estate against an owner of any other part thereof.

Elliston *v.* Reacher, 1908 2 Ch. 665, *applied*.

Reid *v* Bickerstaff, 1909, 2 Ch. 305, *followed*.

Action. This was an action in which the plaintiffs, who owned an hotel at Torquay, claimed an injunction to restrain the defendant, Jenkins, the owner of the adjoining premises, No. 9, Carey Parade, and the defendant Lawley, the lessee from Jenkins, from using or permitting to be used No. 9, Carey Parade for the purpose of a skeeball alley, or for any purpose likely to lessen the value of or materially interfere with the enjoyment of the hotel. The plaintiffs relied on their rights under their title deeds. The premises of both the plaintiffs and the defendants formed part of the Carey family estates. These estates comprised a considerable part of Torquay, and an adjoining area to a large extent unbuilt upon. Leases were from time to time granted during the course of the development of the estate since the year 1875, containing more or less uniform covenants of a familiar type as to the user of the land leased. About 1890 the owners adopted a new policy and as leases dropped in, or as lessees desired to purchase, the fee simple was conveyed, rentcharges being reserved to the grantors as consideration, and a form of conveyance was adopted which corresponded with the conveyances under which the plaintiffs and the defendant, Jenkins, held, and the following note appeared upon the conveyance: "It is intended as a general rule with a view to giving purchasers rights as between themselves to insert similar restrictions in grants and leases (not renewable leases of properties of the same class, although the vendors do not undertake to insert them in all cases." In 1895 the hotel was conveyed by deed dated 16th November, by which both the vendor and the purchaser were defined as including their respective assigns, in consideration of a rentcharge issuing thereout by the then owner of the Carey estates to one Young, who covenanted that during a period restricted within legal limits, the land so conveyed should not be used for any purpose likely to lessen the value of or materially interfere with the enjoyment of any other property belonging at the date of the conveyance to the vendor or to any lessee or grantee of the vendor, and there was a proviso in the deed that all lands within a reasonable distance of the hotel, having regard to the then subsisting and previous routine of the locality, should be held by the respective grantees or lessees thereof subject to those restrictions. The deed further provided that without prejudice to the right of the purchaser to enforce against any owner or lessee any of the restrictive covenants, the vendor was to be under no personal liability for inserting or not inserting in any future grant or lease similar restrictions, or for not enforcing the observance in respect of any part of the estate of any of the restrictions or for releasing any grantee or lessee from the same. It was admitted that the plaintiffs as the assigns of Young, were entitled to enforce any of these covenants. On 7th October, 1911, 9, Carey Street, was similarly conveyed in consideration of a rentcharge to Norminton subject to similar restrictions and a similar admission was made with regard to the rights of Norminton's assignee, the defendant Jenkins.

CLAUSON, J., in the course of a considered judgment, said: With regard to the burden of the covenants, the restrictions in question bound the land, No. 9, Carey Parade, after the conveyance of it to Miss Norminton, and being annexed to the land at the time of its conveyance to the defendant, Jenkins, who was affected with notice of the restrictions, through his title deeds, both Jenkins and the defendant Lawley, his lessee, are bound by the restrictive covenants. But on 7th October, 1921, when Norminton entered into the covenants with the Carey Estate trustees, those covenantees had already parted with the Torbay Hotel. It is therefore impossible that the benefit of those covenants can run with the hotel either at law or in equity: see *Rogers* v. *Hosegood*, 1900, 2 Ch. 388, and the remarks of Farwell, J., at p. 395. An alternative ground has been put forward in support of the plaintiffs' claim, a ground unaffected by questions as to the operation of covenants at law or in equity, when equity is exercising concurrent and auxiliary jurisdiction: see *Lord Strathcona Steamship Co.* v. *Dominion Coal Company*, 1926, A.C. 108, and follows the law. That ground is that although the present is not a case of a building scheme in the ordinary sense (as it was in the case of *Elliston* v. *Reacher*, 1908, 2 Ch. 374, and 665), yet, notwithstanding the absence of mutual covenants, by the systematic policy adopted of granting the fee simple where sales of the freehold became practicable, involving the imposition of a regular system of covenants intended to enure for the benefit, *inter se*, of all the persons who from time to time became owners of portions of the estate, a common interest that there shall be mutual obligations is sufficiently established: see *Renals* v. *Cowlishaw*, 1878, 9 Ch.D. 125. But as Parker, J., indicated in *Elliston* v. *Reacher*, *supra*, there is a limit beyond which the court has not yet passed, which requires that a geographical area shall be defined with reasonable clearness, within which the mutual obligations are intended to operate: see *Reid* v. *Bickerstaff*, 1909, 2 Ch. 305, and *Spicer* v. *Martin*, 1888, 14 App. Cas. at p. 24. In the former case there is upon the evidence no sufficient definition of the area with which the burden and benefit of the covenants are intended to extend. The action accordingly fails on the law. The Court also held that if they were wrong on the law, the action failed on the facts proved.

COUNSEL: *A. Grant*, K.C., and *H. F. F. Greenland*; *Owen Thompson*, K.C., and *J. F. L. Beaumont*; *Jenkins*, K.C. and *Robert Peel*.

SOLICITORS: *Walter Crimp & Co.* for *Kitsons, Hutchings, Easterbrook & Co.*, Torquay; *Torr & Co.*, for *Almy & Thomas*, Torquay.

[Reported by L. M. MAY Esq., Barrister-at-Law.]

In re **Morris; Skinner** *v.* **Sanders.** Russell, J. 6th May.

ESTATE DUTY—LIABILITY OF REAL ESTATE—FINANCE ACT, 1894, 57 & 58 Vict., c. 30, s. 14, sub-s. (1)—LAW OF PROPERTY ACT, 1925, 15 Geo. 5, c. 20, s. 16, sub-ss. (1), (5).

Section 16 (5) *of the Law of Property Act*, 1925, *preserves the liability of real estate to pay its own duties.*

In re Sharman, 1907, 2 Ch. 280, *referred to.*

Originating summons. This was a summons taken out by one of the executors of the testator's will asking (*inter alia*) whether estate duty on the testator's real estate ought, having regard to the new legislation, now to be discharged out of his personal estate, or, in other words, whether the liability imposed by s. 14, sub-s. (1), of the Finance Act, 1894, on real estate to bear its own estate duty is affected by s. 16 of the Law of Property Act, 1925. Before the new legislation it was decided in *In re Sharman, supra*, that estate duty payable in respect of real estate was not a testamentary expense. Under s. 16 (1) of the Law of Property Act, 1925, the personal representative is now accountable for all death duties payable in respect of land whereby the scope of testamentary expenses appears to be extended. But sub-s. (5) provides that nothing in that part of the Act shall affect the liability of persons beneficially interested, and that they will have to repay the personal representative any duties paid by him. The question was, what was the effect of these sub-sections.

RUSSELL, J., after stating the facts, said: On this point it appears to me that sub-s. (5) preserves the liability of real estate to bear its own duties, and therefore the estate duty on the testator's real estate ought not to be discharged out of his personal estate.

COUNSEL: *Bischoff*; *Lavington*; *Neville Gray*; *H. E. Salt*; *J. R. McCrindle*; *Heckscher.*

SOLICITORS: *Sanderson, Lee & Co.*, for *Clarke, Willmott and Clarke*, Taunton.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

The British Thomson-Houston Company *v.* **Mandler.** Clauson, J. 16th May.

PATENT—PRACTICE—INFRINGEMENT—MOTION FOR INTERIM INJUNCTION—CLAIM IN SPECIFICATION—COPY TO BE PUT IN EVIDENCE.

On a motion for an injunction to restrain the infringement of letters patent a copy of the plaintiffs' specification should be put in evidence.

This was a motion in an action of infringement of letters patent for an injunction to restrain the defendant until judgment or further order from manufacturing, selling, dealing in, supplying or parting with possession of all things made in infringement of the plaintiffs' letters patent No. 10918 of 1913. The facts were as follows: The plaintiffs were the registered legal owners of letters patent for "Improvements in Incandescent Lamps," the validity of which letters patent was by the direction of the House of Lords certified by Sargant, J., to have come in question in an action by the plaintiffs' agents, the Corona Lamp Works, Ltd., 1922, 39 R.P.C. 49. There was an affidavit before the court by an expert in which he stated that having examined the filament of one of the defendant's gas-filled lamps, he was of opinion that the lamp had "a filament of tungsten of concentrated form in a gas of low heat conductivity at relatively high pressure," which are the material words in the plaintiffs' specification. The deponent stated that he was familiar with that specification, and that the defendant's lamp was made in infringement of the plaintiffs' letters patent. The defendant had entered an appearance in the action, but had not appeared on the motion.

CLAUSON, J., after stating the facts, granted the injunction asked for, but said: It will be a more proper and a more convenient practice upon similar applications in the future that a copy of the plaintiffs' specification should be put in evidence.

COUNSEL: *Trevor Watson.*

SOLICITORS: *Bristows, Cooke & Carpmael.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

"The Macroom." Bateson, J. 30th March.

SHIPPING—PRACTICE—COLLISION—VESSEL AT ANCHOR—HEADING—PRELIMINARY ACT, para. vii—R.S.C., Ord. 19, r. 28.

In cases of collisions between ships at anchor it is not sufficient in answer to para. 7 of the preliminary act which asks the course and speed of the vessel when the other was first seen to reply "at anchor." The heading of the vessel should also be given.

This was an application at the hearing of a collision case for better particulars of the plaintiffs' answer to para. 7 of their preliminary act. The facts were as follows: The owners of the steamship "Marlwood" claimed damages in respect of a collision with the defendants' ship "Macroom." The collision took place in the early morning of 24th August, 1926, in Long Reach on the Thames, and the plaintiffs in para. 7 of their preliminary act stated against the words "course and speed of the vessel when the other was first seen," that their ship was "at anchor." They amplified this in their statement of claim, and there said she was "lying to her port anchor off Dent Wharf about one to two cables distant from the south shore." The defendants in their preliminary act also alleged that their vessel was at anchor, but gave her heading. The issue in the action was as to which vessel sheered or dragged into the other.

BATESON, J., said: In my judgment in anchorage cases the answer to para. 7 of the preliminary act should contain the heading of the vessel. It is not a sufficient or satisfactory answer merely to state that she is at anchor.

COUNSEL: *Langton*, K.C., *R. F. Hayward*; *Dunlop*, K.C., and *Carpmael.*

SOLICITORS: *Botterell & Roche*, for *Botterell, Roche and Temperley*, Newcastle-upon-Tyne; *Thomas Cooper & Co.*, for *Hill, Dickinson & Co.*, Liverpool.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

McCausland *v.* **McCausland.** Bateson, J. 31st May.

DIVORCE—SERVICE ON MINOR RESPONDENT—MATRIMONIAL CAUSES RULES, 1924, rr. 7, 74A, 97—R.S.C., Ord. IX, r. 4.

A respondent who is a minor may be served with a petition personally.

This was a husband's undefended petition for dissolution. Counsel for the petitioner raised a preliminary point of law with regard to service. The respondent was a minor. Rule 7 of the Matrimonial Causes Rules, 1924, provides that "a petition shall be served personally by delivery of a sealed copy of the petition." Rule 74A provides that "a minor who has attained the age of seven years may elect a guardian *ad litem* for the purpose of any proceeding on his or her behalf," and r. 97 that "in any matter of practice or procedure which is not governed by statute or dealt with by these rules the Rules of the Supreme Court in respect of like matters shall be

deemed to apply." By Ord. IX, r. 4, service in an action has to be made on the father or guardian of an infant defendant, but the court can order that service on the infant shall be good service. Counsel cited *Quinn* v. *Quinn*, 1920, P. 65; that case decided that it was not necessary for a petitioner to apply for the appointment of a guardian *ad litem* in respect of a minor respondent. A petition was not an action, and he submitted that service on the respondent here had been good service.

BATESON, J., said that cases like this must have arisen before and after *Quinn* v. *Quinn*, but probably the efficacy of the service had not been questioned. There was no such protection of a minor in that Division with regard to service of process as in the other Divisions of the High Court. Personal service on the wife was good service.

The evidence was given and a decree *nisi* pronounced.

COUNSEL: *Bayford*, K.C., and *Tyndale*, for the petitioner.

SOLICITORS: *Gibbs, White & King.*

[Reported by J. F. COMPTON MILLER, Esq., Barrister-at-Law.]

Rules and Orders.

THE RATING AND VALUATION ACT (SUBMISSION OF SCHEMES) ORDER, 1927, DATED MARCH 22, 1927, MADE BY THE MINISTER OF HEALTH UNDER SECTION 67 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5. C. 90) FOR REMOVING A DIFFICULTY ARISING IN CONNECTION WITH THE TIME LIMITED FOR THE SUBMISSION OF CERTAIN SCHEMES UNDER THAT ACT.

Whereas by sub-section (2) of section 64 of the Rating and Valuation Act, 1925, and by part III of the second schedule to that Act, it is provided that rating authorities shall before the appointed day, that is to say, the 1st day of April, 1927, submit to the Minister of Health schemes for preserving such exemptions from and privileges in respect of rating as are mentioned in the said section 64, and for determining the amount of the deduction to be made from the net annual value of certain hereditaments in order to arrive at the rateable value thereof:

And whereas in certain cases difficulty has arisen in connection with the preparation of the necessary schemes and it is desirable that the time within which they may be submitted should be extended:

And whereas by section 67 of the said Act it is provided that if any difficulty arises in connection with the application of the Act to any exceptional area, or the preparation of the first valuation list for any area, or otherwise in bringing into operation any of the provisions of the Act, the Minister of Health may by order remove the difficulty, or constitute any assessment committee, or declare any assessment committee to be duly constituted, or make any appointment, or do any other thing, which appears to him necessary or expedient for securing the due preparation of the list, or for bringing the said provisions into operation, and any such order may modify the provisions of the Act so far as may appear to the Minister necessary or expedient for carrying the order into effect:

Now therefore, the Minister of Health, by virtue of the powers conferred upon him by the said section 67, and of all other powers enabling him in that behalf, hereby orders as follows:—

1. This order may be cited as the Rating and Valuation Act (Submission of Schemes) Order, 1927, and shall come into operation on the date hereof.

2. The time within which schemes may be submitted by rating authorities to the Minister of Health in pursuance of the provisions of sub-section (2) of section 64 of the Rating and Valuation Act, 1925, or of part III of the second schedule to that Act, is hereby extended to the 1st day of July, 1927.

Given under the official seal of the Minister of Health this twenty-second day of March in the year one thousand nine hundred and twenty-seven.

(L.S.) *H. W. S. Francis,*
Assistant Secretary, Ministry of Health.

THE COUNTY COURT (LEGITIMATION) RULES, 1927.
DATED APRIL 11, 1927.

1. These Rules may be cited as the County Court (Legitimation) Rules, 1927, and shall be read and construed with the County Court Rules, 1903,(*) as amended.

An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1903, as amended.

A Form referred to by number in these Rules means the Form so numbered in Part I of the Appendix to the County Court Rules, 1903, as amended.

The County Court Rules, 1903, as amended, shall have effect as further amended by these Rules.

2. After Order L of the County Court Rules, 1903, there shall be inserted the following Rules, which shall stand as Order LA:—

"ORDER LA.
THE LEGITIMACY ACT, 1926.

1. *Interpretation.*]—In this Order—
'the Act of 1926' means the Legitimacy Act, 1926(†)
'petitioner' means a person applying for a legitimacy declaration, and 'petition' has a corresponding meaning.

2. *Venue.*]—A petition may be filed—
(*a*) in the County Court within the district of which the petitioner resides, or
(*b*) in the County Court within the district of which the marriage leading to the legitimation occurred; or
(*c*) if neither the residence of the petitioner nor the place of the marriage is situate in England or Wales, then in any Metropolitan County Court.

3. The County Court Rules and practice and in particular the practice under Order XXXVIII shall so far as practicable govern all proceedings under the Act of 1926 subject nevertheless to these Rules.

4. A petition shall be intituled 'In the matter of the Legitimacy Declaration Act, 1858,(‡) as amended by sections 188 and 226 of the Supreme Court of Judicature (Consolidation) Act, 1925,(§)' and 'In the matter of the Legitimacy Act, 1926,' and 'In the matter of—(*the person to be declared legitimated*)'—and shall be according to the form [Form 460] in the Appendix with such variations and additions as the circumstances may require, and shall state, amongst other matters:—
(*a*) the place and date of the marriage:
(*b*) the status and residence of each of the parents, and the occupation and domicile of the father of the person whose legitimacy the Court is asked to declare (1) at the date of his birth and (2) at the date of the marriage;
(*c*) whether there is living other issue of the parents of such person as aforesaid and the respective names and dates of the birth of such issue;
(*d*) the persons (if any) affected by the ligitimation of such person as aforesaid and the value so far as is known of the property (if any) thereby involved;
(*e*) whether any and if so what previous proceedings under the Act of 1926 or otherwise with reference to the paternity of such person as aforesaid or the validity of the marriage leading to his legitimation have been taken in any Court;
(*f*) that there is no collusion.
A petition shall also include an undertaking by the petitioner to pay the costs of the respondents if the Court shall so direct.

5. If the petitioner does not reside in England or Wales the petition shall state an address in England or Wales at which the petitioner may be served with any summons, notice, order of Court, or other process.

6. Where it appears on the presentation of a petition that the petitioner does not reside in England or Wales, the petition shall not be filed until security for costs, by deposit of money or otherwise, has been given to the satisfaction of the Registrar, and the provisions of Rules 10 and 11 of Order V shall apply *mutatis mutandis*.

7. The respondents to a petition shall be the Attorney-General and all persons whose interests may be affected by the legitimacy declaration asked for, and the Court may at any time direct any persons not made respondents to be made respondents and to be served with the petition and affidavit, and may adjourn the hearing of the petition for that purpose on such terms as to costs or otherwise as may be just.

8. The petition shall be accompanied by an affidavit made by the petitioner verifying the facts of which he has personal knowledge and deposing as to his belief in the truth of the other facts alleged in the petition, and the affidavit shall be filed with the petition [Form 461].

9.—(1) There shall be filed with the petition as many copies of the petition and the affidavit as there are respondents to be served and also two copies for the use of the Court.

(*) S.R. & O. Rev., 1904, III, County Court, E., p. 89 (1903, No. 629).

(†) 16-7 G. 5. c. 60.
(‡) 21-2 V. c. 93. (§) 15-6 G. 5. c. 49.

(2) There shall be lodged with the petition every birth, death or marriage certificate intended to be relied upon at the hearing.

10.—(1) A copy of the petition and a copy of the affidavit shall be delivered or sent by registered post by the petitioner to the Attorney-General at least a month before the petition is presented or filed.

(2) Any document or notice addressed to the Attorney-General shall be addressed to him at the office of the Treasury Solicitor, Storey's Gate, London, S.W.1.

11.—(1) A sealed copy of the petition and affidavit shall unless the Court otherwise directs be served by the bailiff twenty-eight days at least before the hearing on every respondent (other than the Attorney-General) personally and the petition and every copy to be served on a respondent (other than the Attorney-General) shall be endorsed with a notice according to the form [Form 460] in the Appendix.

(2) At least twenty-eight days' notice of the day whereon the petition will be heard shall be given by the Registrar to the Attorney-General [Form 462].

12.—(1) A respondent may within fourteen days after service of the petition upon him file an answer to the petition [Form 463].

(2) Every answer which contains matter other than a simple denial of the facts stated in the petition shall be accompanied by an affidavit made by the respondent verifying such other matter as far as he has personal knowledge thereof, and deposing to his belief in the truth of the rest of such other matter.

(3) There shall be filed with the answer as many copies of the answer and the affidavit (if any) as there are other parties to the petition, and also two copies for the use of the Court.

(4) The Registrar shall, within twenty-four hours of receiving them, send by post one sealed copy of the answer and the affidavit to the petitioner, the Attorney-General, and any other respondents.

13. Evidence on the hearing of the petition shall be given orally:

Provided that the Judge may, on application made to him before or at the hearing, for good cause shewn, direct that any particular fact or facts alleged in the petition or answer may be proved by affidavit.

14. The Judge may make such orders as to costs as he shall think fit and may direct the costs to be taxed according to such one of the Scales of Costs as he shall determine, and in default of such direction the costs shall be taxed under column B of the Higher Scale.

15. A copy of the order [Form 464] made on the hearing of a petition sealed with the seal of the Court shall be supplied by the Registrar to any party to the proceedings on payment of the prescribed fee.

16. If a petition is presented and the Judge considers that the case is one which owing to the value of the property involved or otherwise ought to be dealt with by the High Court, he may, and if ordered by the High Court he shall, transfer the matter to the Probate Divorce and Admiralty Division of the High Court; and the Registrar shall make and file a copy of such order and shall transmit a sealed copy of such order, together with the petition [Form 465] and affidavits filed in the matter and a certificate showing the state of the matter and the proceedings which may have been had therein, by post or otherwise to the proper officer of the said Division of the High Court, and shall also send notice of the making of such order by post or otherwise to all parties to the proceedings."

3. In Part I of the Appendix to the County Court Rules, 1903, there shall be inserted the following new forms which shall stand as Forms 460, 461, 462, 463, 464, and 465 respectively:—

"460.

LEGITIMATION PETITION.

IN THE COUNTY COURT OF HOLDEN AT .
In the matter of the Legitimacy Declaration Act, 1858, as amended by sections 188 and 226 of the Supreme Court of Judicature (Consolidation) Act, 1925,
and
In the matter of the Legitimacy Act, 1926,
and
In the matter of A.B. of
in the County of [*state name, address, and description of the person whose legitimacy the Court is asked to declare*].
To His Honour the Judge of the said Court.
The Petition of the above-named A.B.
Sheweth as follows:—

1. Your Petitioner is of the sex and was born on the day of , 1 , at , in the County of . The birth of your Petitioner is recorded by an entry numbered and made on the day of , 1 , in the Register of Births for the Registration District of and the sub-district of , in the County of .

2. Your Petitioner is the natural child of C.D., of , in the County of , by E.F., of , in the County of .

3. Neither the said C.D. nor E.F. was married at the date of the birth of your Petitioner, the said C.D. being then a spinster [*or* widow] residing at , and the said E.F. being then a bachelor [*or* widower], and residing at , and domiciled in .

4. The said C.D. and E.F. were lawfully married to one another on the day of , 19 , at . The said C.D. and E.F. have had issue children and no more, namely [*state names and dates of birth of such issue*].

5. At the date of the marriage, the said C.D. was a spinster *or* widow] and the said E.F. was a bachelor [*or* widower] and was residing at and was domiciled in .

6. The following persons are affected by the legitimation as aforesaid of your Petitioner:
(*State names and addresses and descriptions and relationship.*)

7. The value of the property involved by the legitimation of your Petitioner, so far as is known to your Petitioner, is £ .

8. Your Petitioner is not acting in collusion with or with the connivance of any person for the purpose of obtaining a decree and declaration of legitimacy contrary to the justice of the case.

9. No previous proceedings under the Legitimacy Act, 1926, or otherwise, with reference to the paternity of your Petitioner or the validity of the marriage of the said C.D. and E.F. have been taken in any Court (*or as may be*).

10. Your Petitioner undertakes to pay the costs of the Respondents to this petition if the Court so directs.

Your Petitioner therefore prays—

That it may be decreed and declared that the said C.D. and E.F. were lawfully married at on the day of , 19 , and that by such marriage your Petitioner became legitimated as from the date of the said marriage [*or* as from the date of the commencement of the Legitimacy Act, 1926] for the purposes of the Legitimacy Act, 1926.

That the costs of the Respondents to this Petition may be taxed or otherwise ascertained.

Dated the day of , 19 .

NOTE.—It is intended to serve this Petition on the Attorney-General and on .

See BACK.

[*To be indorsed on the Petition.*]

Notice.

Take notice that the within Petition will be heard at the Court holden at on the day of , 19 , at o'clock in the noon and in default of your then appearing either in person or by your Solicitor the Court will proceed to hear the said petition and pronounce judgment your absence notwithstanding.

If you desire to file any affidavits in answer to the Petition you must file them in the above Court within fourteen days after service on you of the within Petition.

(Signed)

Registrar.

461.

AFFIDAVIT IN SUPPORT OF PETITION.

[*Heading as in Form* 460.]

I, of , the petitioner in the above Matter, make oath and say as follows:—

1. That the statements contained in paragraphs of my petition dated the day of 19 , are true.

2. That the statements contained in paragraphs of my said petition are true to the best of my knowledge, information and belief.

Sworn, etc.

462.

NOTICE TO ATTORNEY-GENERAL.

[*Heading as in Form* 460.]

Take Notice that the petition in the above Matter will be heard at the Court holden at on the day of , 19 at o'clock in the noon.

Registrar.

463.

ANSWER TO LEGITIMATION PETITION.

(Not to be printed.)

[*Heading as in Form* 460.]

The respondent L.M., by P.Q., his solicitor (or in person), in answer to the petition filed in the above Matter, says:

(1) That [the petitioner is not the natural child of E.F. as alleged in the petition];

(2) That [at the time of the birth of the petitioner, the petitioner's mother C.D. was married to a third party, namely]

(*or as may be*)

Wherefore this respondent humbly prays that the prayer of the petition may be rejected.

Dated the day of , 19 .

464.

LEGITIMATION DECREE.

[*Heading as in Form* 460.]

Upon reading the Petition of A.B. of , presented to this Court in the above Matter and upon reading the affidavit(s) of and the several exhibits thereto.

And upon hearing .

And the Court being satisfied that the allegations contained in the said Petition are true and that all proper persons have been served with the said Petition.

It is decreed and declared that C.D. of , and E.F. of , in the said Petition mentioned were lawfully married at on the day of , 19 , and that by such marriage the said A.B. was legitimated for the purposes of the Legitimacy Act, 1926, as from the day of , 19 (being the date of the said marriage) [*or* as from the 1st day of January, 1927 (being the date of the commencement of the said Act)].

And it is ordered that the costs of the Respondents to the said Petition be taxed by the Registrar of this Court under Column of the Higher Scale of Costs in use in County Courts and that the said A.B. do pay to the said Registrar for the use of the said Respondents such Costs within 14 days from the date of the certificate of such taxation (*or as may be*).

465.

ORDER FOR TRANSFER OF PROCEEDINGS TO HIGH COURT.

[*Heading as in Form* 460.]

Whereas it appears that owing to the value of the property involved (*or as may be*) this matter ought to be dealt with by the High Court. It is ordered that this matter be transferred to the Probate Divorce and Admiralty Division of the High Court of Justice together with the petition and affidavits filed in the matter and the annexed certificate of the Registrar of this Court shewing the state of the matter and the proceedings that have been had therein in this Court.

Whereas Rules have been framed and submitted to me by the County Court Rule Committee appointed in pursuance of section 164 of the County Courts Act, 1888,(*) as amended by section 24 of the County Courts Act, 1919(†):

And whereas in exercise of the powers vested in me by the said enactment I have altered the Rules as framed:

And whereas the Rules so framed and altered have been approved by the Rule Committee of the Supreme Court, and are the Rules set forth above:

Now therefore, I, George Viscount Cave, Lord High Chancellor of Great Britain, do hereby direct in pursuance of the said enactment that the Rules set forth above shall come into force on the 20th day of April, 1927.

Dated the 11th day of April, 1927.

Cave, C.

(*) 51–2 V. c. 43. (†) 9–10 G. 5. c. 73.

Legal Notes and News.

Honours and Appointments.

BIRTHDAY HONOURS.

BARONETS.

Mr. REGINALD JAMES NEVILLE NEVILLE, J.P., M.P., Barrister-at-Law, Recorder of Bury St. Edmunds, since 1905; M.P. for Wigan 1910-18 and Norfolk East, since 1924.

KNIGHTS BACHELOR.

Mr. AUGUSTUS GORDON GRANT ASHER, C.B.E., W.S., County Clerk of Midlothian, Secretary of The Association of County Councils in Scotland.

Mr. THOMAS JAMES BARNES, C.B.E., Solicitor to the Board of Trade.

Mr. GEORGE ALBERT BONNER, King's Remembrancer and Senior Master of The Supreme Court.

Mr. THOMAS EDWARD FORSTER, K.C., J.P.

Mr. CHARLES JAMES MARTIN, C.M.G., D.Sc., LL.D., D.C.L., F.R.S., Director of The Lister Institute in London.

His Honour JUDGE EDMUND ABBOTT PARRY, J.P., late County Court Judge.

Mr. JOHN PROSSER, W.S., Crown Agent in Scotland.

Alderman WALTER RAINE, M.P., Chairman of Section B of The Local Legislation Committee.

Mr. JOHN HOULDSWORTH SHAW, Solicitor to the Board of Inland Revenue.

Mr. Justice CHARLES GORDON HILL FAWCETT, Puisne Judge, High Court of Judicature, Bombay.

Mr. Justice ZAHHADUR RAHIM ZAHID SUHRAWARDY, Puisne Judge, High Court of Judicature, Calcutta.

Mr. DAVID ELIAS DAVID EZRA, late Sheriff of Calcutta.

U. PO THA, C.I.E., O.B.E., Honorary Magistrate, Rangoon.

Mr. ANTHONY DE FREITAS, O.B.E., Chief Justice of British Guiana.

ORDER OF THE BATH.

C.B.

Mr. FREDERICK ROWLAND WILLIAMS WYNN, Principal Clerk, Committee and Private Bill Office, House of Commons.

ORDER OF ST. MICHAEL AND ST. GEORGE.

C.M.G.

Mr. JOHN THOMAS COLLINS, K.C., Parliamentary Draftsman, State of Victoria.

Mr. HENRY GRATTAN BUSHE, Assistant Legal Adviser, Colonial Office.

ORDER OF THE BRITISH EMPIRE.

K.B.E.

Colonel HERBERT STUART SANKEY, C.V.O., V.D., J.P., D.L., late Remembrancer of the City of London.

Mr. JOHN HOPE PERCIVAL, Judicial Adviser to the Egyptian Government.

C.B.E.

Mr. GEORGE FREDERICK CLUCAS, Speaker of the House of Keys, Isle of Man.

Mr. WILLIAM REEVE WALLACE, O.B.E., Chief Clerk, Judicial Committee of the Privy Council.

Mr. NIGEL GEORGE DAVIDSON, Legal Secretary, Sudan Government.

Mr. ALBERT MARTIN OPPENHEIMER, Legal Adviser to His Majesty's Embassy, Berlin.

O.B.E.

Mr. ARTHUR WILLIAM BLUCK, Assistant Judge of the Supreme Court, Bermuda.

Mr. JOHN PRICHARD, President of the Court of First Instance, Baghdad, Iraq.

Mr. WILLIAM WALTER COOMBS, M.B.E., Chief Clerk, Companies Department, Board of Trade.

Mr. LAURENCE RICHMOND, Clerk to the Sheffield Board of Guardians.

IMPERIAL SERVICE ORDER—COMPANIONS.

Mr. ANDREW FROUDE, Secretary and Chief Clerk, General Registry Office, Scotland.

Mr. ERNEST LESLIE HOLLAND, Senior Examiner, Estate Duty Office, Board of Inland Revenue.

Mr. CHARLES WILLIAM LUMLEY, Staff Clerk, Privy Council Office.

Mr. JOHN HENRY STANLEY ROBBIN, Chief Registrar of the Supreme Court, Nigeria.

ORDER OF THE INDIAN EMPIRE.

C.I.E.

Mr. JOHN HUGH RONALD FRASER, O.B.E., Judicial Commissioner, N.W. Frontier Province.

Mr. HENRY CRAWFORD LIDDELL, Superintendent and Remembrancer of Legal Affairs and Judicial Secretary to the Government of Bengal.

Mr. ABRAHAM WATKINS, Deputy Clerk and Assistant Solicitor to the Aberdare Urban District Council, has been appointed Clerk to the Llanelly Board of Guardians and Rural District Council, to fill the vacancy caused by the death of Mr. J. H. Blake. Mr. Watkins was admitted in 1922.

Mr. THOMAS GEORGE JOHNSON, Assistant Solicitor to the Town Clerk of Huddersfield (Mr. J. Henry Field, LL.B.) has been appointed Solicitor to the Hearts of Oak Benefit Society. Mr. Johnson was admitted in 1921.

Mr. G. MERVYN HEAP, Assistant Solicitor to the Town Clerk of Blackpool (Mr. D. L. Harbottle, LL.B.) has been appointed Clerk and Solicitor to the Hayes Urban District Council. Mr. Heap was admitted in 1924.

Professional Announcement.

(2s. per line.)

Messrs. Watkins, Pulleyn & Ellison, Solicitors, announce that they have removed their offices from 6, South-square, to 14, Gray's Inn-square, W.C.1. The telephone number (Chancery 7714) and telegraphic address ("Obdurate, Holb., London") will remain the same.

Wills and Bequests.

Mr. James Scarr Yeoman, solicitor, of Darlington, a partner in the firm of Yeoman & Waldy, who died on 24th April, left estate of the gross value of £11,109. He left £100 to his clerk, Herbert Bowron Alderson, for long and faithful service.

Mr. Alfred Herbert Skan (58), solicitor, of Southill, Albert-road, Caversham, left estate of the gross value of £7,176.

MIDLAND BANK'S RECEIPT FORMS.

The Midland Bank announces that, in view of the correspondence now passing between the Chancellor of the Exchequer and the bank, its branch managers have been instructed to refrain for the time being from issuing receipt forms to customers. Those already in circulation will be dealt with as hitherto.

LONDON ASSOCIATION OF ACCOUNTANTS.

TWENTY-SECOND ANNUAL GENERAL MEETING.

The twenty-second annual general meeting of the London Association of Accountants was held at the Cordwainers' Hall, Cannon-street, London, E.C., on Tuesday, the 31st May, Mr. John M. Biggar, F.L.A.A., the President of the Association, presided over a large gathering.

In his presidential address, Mr. Biggar spoke of the progress which the Association continued to make, and its present position in the accountancy profession. During the year under review, the membership had increased to 2,738, while there had been seventy-one transfers to fellowship. The number of applications to sit for the Association's examinations had now reached a normal level of about 1,400 per annum. The branch organisation had been extended and, when the new scheme was fully operative, would embrace the whole of the country. After the meeting a discussion ensued upon the new Companies Bill. Subsequent to the above meeting the council re-elected Mr. John M. Biggar as president for the ensuing year.

The Council learned with very deep regret of the loss to the profession sustained by the death of Sir Arthur Whinney, and the Secretary was directed to transmit the Council's condolences to Lady Whinney and to the Institute of Chartered Accountants.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE.

Date.	EMERGENCY ROTA.	APPEAL COURT No. 1.	Mr. JUSTICE EVE.	Mr. JUSTICE ROMER.
Monday June 13	Mr. Ritchie	Mr. More	Mr. Bloxam	Mr. Hicks Beach
Tuesday .. 14	Synge	Jolly	Hicks Beach	Bloxam
Wednesday 15	Hicks Beach	Ritchie	Bloxam	Hicks Beach
Thursday .. 16	Bloxam	Synge	Hicks Beach	Bloxam
Friday 17	More	Hicks Beach	Bloxam	Hicks Beach
Saturday .. 18	Jolly	Bloxam	Hicks Beach	Bloxam

Date.	Mr. JUSTICE ASTBURY.	Mr. JUSTICE CLAUSON.	Mr. JUSTICE RUSSELL.	Mr. JUSTICE TOMLIN.
Monday June 13	Mr. Ritchie	Mr. Synge	Mr. Jolly	Mr. More
Tuesday .. 14	Synge	Ritchie	More	Jolly
Wednesday 15	Ritchie	Synge	Jolly	More
Thursday . 16	Synge	Ritchie	More	Jolly
Friday 17	Ritchie	Synge	Jolly	More
Saturday .. 18	Synge	Ritchie	More	Jolly

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement, Thursday, 16th June, 1927.

	Middle Price 8th June	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 4% 1957 or after	86⅛	4 13 0	—
Consols 2½%	54⅛	4 12 0	—
War Loan 5% 1929-47	100 7/32	4 19 6	4 19 6
War Loan 4½% 1925-45	95¾	4 14 0	4 17 0
War Loan 4% (Tax free) 1929-42	100⅜	3 19 6	3 19 6
Funding 4% Loan 1960-90	86 9/32	4 12 6	4 13 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	92¼	4 6 6	4 9 6
Conversion 4½% Loan 1940-44	96	4 13 6	4 16 6
Conversion 3½% Loan 1961	76⅜	4 11 6	—
Local Loans 3% Stock 1921 or after	63 5/32	4 15 0	—
Bank Stock	246	4 18 0	—
India 4½% 1950-55	90⅜	4 19 6	5 2 6
India 3½%	69¼xd	5 1 0	—
India 3%	59¼xd	5 1 0	—
Sudan 4½% 1939-73	94	4 16 0	4 17 0
Sudan 4% 1974	84½	4 15 0	4 18 6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80½	3 14 0	4 12 0
Colonial Securities.			
Canada 3% 1938	83¾	3 12 0	4 18 6
Cape of Good Hope 4% 1916-36	93	4 6 0	5 0 0
Cape of Good Hope 3½% 1929-49	79½xd	4 8 0	5 0 6
Commonwealth of Australia 5% 1945-75	97½	5 2 0	5 2 0
Gold Coast 4½% 1956	93½xd	4 16 0	4 18 0
Jamaica 4½% 1941-71	92¼	4 18 0	4 19 0
Natal 4% 1937	92½	4 6 6	4 19 6
New South Wales 4½% 1935-45	89½xd	5 1 0	5 9 0
New South Wales 5% 1945-65	96¾	5 3 0	5 4 6
New Zealand 4½% 1945	95½	4 14 6	4 18 6
New Zealand 5% 1946	99½xd	5 0 0	5 0 0
Queensland 5% 1940-60	96⅝	5 3 6	5 4 6
South Africa 5% 1945-75	100¼xd	5 0 0	5 0 0
S. Australia 5% 1945-75	96½	5 3 6	5 3 6
Tasmania 5% 1945-75	100¼	4 19 6	5 1 0
Victoria 5% 1945-75	98¼xd	5 2 0	5 3 6
W. Australia 5% 1945-75	99	5 1 0	5 3 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	61¼xd	4 18 0	—
Birmingham 5% 1946-56	102¾	4 17 6	4 18 6
Cardiff 5% 1945-65	101¼	4 19 0	4 19 0
Croydon 3% 1940-60	69	4 7 6	5 0 0
Hull 3½% 1925-55	78	4 10 0	5 0 0
Liverpool 3½% on or after 1942 at option of Corpn.	72¼xd	4 17 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52¼	4 16 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62¼	4 16 0	—
Manchester 3% on or after 1941	63¼	4 14 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 15 0	4 16 0
Metropolitan Water Board 3% 'B' 1934-2003	64¾	4 12 6	4 15 0
Middlesex C. C. 3½% 1927-47	82¼	4 5 6	4 17 6
Newcastle 3½% irredeemable	71½	4 18 6	—
Nottingham 3% irredeemable	61½	4 17 0	—
Stockton 5% 1946-66	¶101½	4 18 6	4 19 6
Wolverhampton 5% 1946-56	101¼	4 19 0	4 19 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	80¾	4 19 0	—
Gt. Western Rly. 5% Rent Charge	99	5 1 0	—
Gt. Western Rly. 5% Preference	93¾	5 6 6	—
L. North Eastern Rly. 4% Debenture	75¾	5 6 0	—
L. North Eastern Rly. 4% Guaranteed	71½	5 11 0	—
L. North Eastern Rly. 4% 1st Preference	65¾	6 1 6	—
L. Mid. & Scot. Rly. 4% Debenture	79½	5 0 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	76½	5 4 6	—
L. Mid. & Scot. Rly. 4% Preference	71½	5 12 0	—
Southern Railway 4% Debenture	79½	5 0 6	—
Southern Railway 5% Guaranteed	97½	5 2 6	—
Southern Railway 5% Preference	91½	5 9 6	—